

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**S. B. No. 95**

**Senators Peterson, Kunze**

**Cosponsors: Senators Wilson, Rulli, Hackett, Huffman, S., Lehner**

---

**A BILL**

To amend sections 122.17, 3735.65, 3735.67,  
3735.671, 5709.61, 5709.62, 5709.63, 5709.631,  
5709.632, and 5751.01 of the Revised Code to  
enhance state and local tax inducements for  
businesses making substantial fixed asset and  
employment investments and their suppliers.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 122.17, 3735.65, 3735.67,  
3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, and  
5751.01 of the Revised Code be amended to read as follows:

**Sec. 122.17.** (A) As used in this section:

(1) "Payroll" means the total taxable income paid by the  
employer during the employer's taxable year, or during the  
calendar year that includes the employer's tax period, to each  
employee or each home-based employee employed in the project to  
the extent such payroll is not used to determine the credit  
under section 122.171 of the Revised Code. "Payroll" excludes  
amounts paid before the day the taxpayer becomes eligible for  
the credit and retirement or other benefits paid or contributed

by the employer to or on behalf of employees. 19

(2) "Baseline payroll" means Ohio employee payroll, except 20  
that the applicable measurement period is the twelve months 21  
immediately preceding the date the tax credit authority approves 22  
the taxpayer's application or the date the tax credit authority 23  
receives the recommendation described in division (C) (2) (a) of 24  
this section, whichever occurs first, multiplied by the sum of 25  
one plus an annual pay increase factor to be determined by the 26  
tax credit authority. 27

(3) "Ohio employee payroll" means the amount of 28  
compensation used to determine the withholding obligations in 29  
division (A) of section 5747.06 of the Revised Code and paid by 30  
the employer during the employer's taxable year, or during the 31  
calendar year that includes the employer's tax period, to the 32  
following: 33

(a) An employee employed in the project who is a resident 34  
of this state including a qualifying work-from-home employee not 35  
designated as a home-based employee by an applicant under 36  
division (C) (1) of this section; 37

(b) An employee employed at the project location who is 38  
not a resident and whose compensation is not exempt from the tax 39  
imposed under section 5747.02 of the Revised Code pursuant to a 40  
reciprocity agreement with another state under division (A) (3) 41  
of section 5747.05 of the Revised Code; 42

(c) A home-based employee employed in the project. 43

"Ohio employee payroll" excludes any such compensation to 44  
the extent it is used to determine the credit under section 45  
122.171 of the Revised Code, and excludes amounts paid before 46  
the day the taxpayer becomes eligible for the credit under this 47

|   |                                  |
|---|----------------------------------|
| section.  | 48                               |
| (4) "Excess payroll" means Ohio employee payroll minus<br>baseline payroll.   | 49<br>50                         |
| (5) "Home-based employee" means an employee whose services<br>are performed primarily from the employee's residence in this<br>state exclusively for the benefit of the project and whose rate<br>of pay is at least one hundred thirty-one per cent of the<br>federal minimum wage under 29 U.S.C. 206.                                  | 51<br>52<br>53<br>54<br>55       |
| (6) "Full-time equivalent employees" means the quotient<br>obtained by dividing the total number of hours for which<br>employees were compensated for employment in the project by two<br>thousand eighty. "Full-time equivalent employees" excludes hours<br>that are counted for a credit under section 122.171 of the<br>Revised Code. | 56<br>57<br>58<br>59<br>60<br>61 |
| (7) "Metric evaluation date" means the date by which the<br>taxpayer must meet all of the commitments included in the<br>agreement.   | 62<br>63<br>64                   |
| (8) "Qualifying work-from-home employee" means an employee<br>who is a resident of this state and whose services are<br>supervised from the employer's project location and performed<br>primarily from a residence of the employee located in this<br>state.   | 65<br>66<br>67<br>68<br>69       |
| (9) "Resident" or "resident of this state" means an<br>individual who is a resident as defined in section 5747.01 of<br>the Revised Code.   | 70<br>71<br>72                   |
| <u>(10) "Megaproject" means a project in this state that<br/>meets all of the following requirements:</u>   | 73<br>74                         |
| <u>(a) The project requires unique sites, extremely robust</u>  | 75                               |

utility service, and a technically skilled workforce; 76

(b) The megaproject operator of the project compensates 77  
the project's employees at an average hourly wage of at least 78  
three hundred per cent of the federal minimum wage under 29 79  
U.S.C. 206, exclusive of employee benefits, at the time the tax 80  
credit authority approves the project for a credit under this 81  
section; 82

(c) The project satisfies either of the following by the 83  
metric evaluation date applicable to the project: 84

(i) The megaproject operator makes at least one billion 85  
dollars in fixed-asset investments in the project; 86

(ii) The megaproject operator creates at least seventy- 87  
five million dollars in Ohio employee payroll at the project. 88

(d) If the project satisfies division (A) (10) (c) (ii) of 89  
this section, then, on and after the metric evaluation date and 90  
until the end of the last year for which the megaproject 91  
qualifies for the credit authorized under this section, the 92  
megaproject operator maintains at least seventy-five million 93  
dollars in Ohio employee payroll at the project. 94

(11) "Megaproject operator" means a taxpayer that 95  
undertakes and operates a megaproject. 96

(12) "Megaproject supplier" means a supplier in this state 97  
that sells tangible personal property directly to a megaproject 98  
operator and meets all of the following requirements: 99

(a) Satisfies both of the following by the metric 100  
evaluation date applicable to the megaproject supplier: 101

(i) Makes at least one hundred million dollars in fixed- 102  
asset investments in this state; 103

(ii) Creates at least ten million dollars in Ohio employee payroll. 104  
105

(b) On and after the metric evaluation date, until the end of the last year for which the megaproject supplier qualifies for the credit authorized under this section, maintains at least ten million dollars in Ohio employee payroll. 106  
107  
108  
109

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. With respect to taxes imposed under section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the Revised Code, the credit shall be claimed in the order required under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the excess payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority. 110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125

(C) (1) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. 126  
127  
128  
129

An application shall not propose to include both home-based employees and employees who are not home-based employees in the computation of Ohio employee payroll for the purposes of the same tax credit agreement, except that a qualifying work- 130  
131  
132  
133

from-home employee shall not be considered to be a home-based 134  
employee unless so designated by the applicant. If a taxpayer or 135  
potential taxpayer employs both home-based employees and 136  
employees who are not home-based employees in a project, the 137  
taxpayer shall submit separate applications for separate tax 138  
credit agreements for the project, one of which shall include 139  
home-based employees in the computation of Ohio employee payroll 140  
and one of which shall include all other employees in the 141  
computation of Ohio employee payroll. 142

The director of development services shall prescribe the 143  
form of the application. After receipt of an application, the 144  
authority may enter into an agreement with the taxpayer for a 145  
credit under this section if it determines all of the following: 146

(a) The taxpayer's project will increase payroll; 147

(b) The taxpayer's project is economically sound and will 148  
benefit the people of this state by increasing opportunities for 149  
employment and strengthening the economy of this state; 150

(c) Receiving the tax credit is a major factor in the 151  
taxpayer's decision to go forward with the project. 152

(2) (a) A taxpayer that chooses to begin the project prior 153  
to receiving the determination of the authority may, upon 154  
submitting the taxpayer's application to the authority, request 155  
that the chief investment officer of the nonprofit corporation 156  
formed under section 187.01 of the Revised Code and the director 157  
review the taxpayer's application and recommend to the authority 158  
that the taxpayer's application be considered. As soon as 159  
possible after receiving such a request, the chief investment 160  
officer and the director shall review the taxpayer's application 161  
and, if they determine that the application warrants 162

consideration by the authority, make that recommendation to the 163  
authority not later than six months after the application is 164  
received by the authority. 165

(b) The authority shall consider any taxpayer's 166  
application for which it receives a recommendation under 167  
division (C) (2) (a) of this section. If the authority determines 168  
that the taxpayer does not meet all of the criteria set forth in 169  
division (C) (1) of this section, the authority and the 170  
development services agency shall proceed in accordance with 171  
rules adopted by the director pursuant to division (I) of this 172  
section. 173

(D) An agreement under this section shall include all of 174  
the following: 175

(1) A detailed description of the project that is the 176  
subject of the agreement; 177

(2) (a) The term of the tax credit, which, except as 178  
provided in division (D) (2) (b) or (c) of this section, shall not 179  
exceed fifteen years, and the first taxable year, or first 180  
calendar year that includes a tax period, for which the credit 181  
may be claimed; 182

(b) If the tax credit is computed on the basis of home- 183  
based employees, the term of the credit shall expire on or 184  
before the last day of the taxable or calendar year ending 185  
before the beginning of the seventh year after September 6, 186  
2012, the effective date of H.B. 327 of the 129th general 187  
assembly; 188

(c) If the taxpayer is a megaproject operator or a 189  
megaproject supplier, the term of the tax credit shall not 190  
exceed thirty years. 191

- (3) A requirement that the taxpayer shall maintain operations at the project location for at least the greater of seven years or the term of the credit plus three years;
- (4) The percentage, as determined by the tax credit authority, of excess payroll that will be allowed as the amount of the credit for each taxable year or for each calendar year that includes a tax period;
- (5) The pay increase factor to be applied to the taxpayer's baseline payroll;
- (6) A requirement that the taxpayer annually shall report to the director of development services full-time equivalent employees, payroll, Ohio employee payroll, investment, the provision of health care benefits and tuition reimbursement if required in the agreement, and other information the director needs to perform the director's duties under this section;
- (7) A requirement that the director of development services annually review the information reported under division (D)(6) of this section and verify compliance with the agreement; if the taxpayer is in compliance, a requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year~~r~~. If the taxpayer is a megaproject supplier, the director shall issue such a certificate to the supplier and to any megaproject operator (a) to which the supplier directly sells tangible personal property and (b) that is authorized to claim the credit pursuant to division (D)(10) of this section.
- (8) A provision providing that the taxpayer may not relocate a substantial number of employment positions from

elsewhere in this state to the project location unless the 221  
director of development services determines that the legislative 222  
authority of the county, township, or municipal corporation from 223  
which the employment positions would be relocated has been 224  
notified by the taxpayer of the relocation. 225

For purposes of this section, the movement of an 226  
employment position from one political subdivision to another 227  
political subdivision shall be considered a relocation of an 228  
employment position unless the employment position in the first 229  
political subdivision is replaced. The movement of a qualifying 230  
work-from-home employee to a different residence located in this 231  
state or to the project location shall not be considered a 232  
relocation of an employment position. 233

(9) If the tax credit is computed on the basis of home- 234  
based employees, that the tax credit may not be claimed by the 235  
taxpayer until the taxable year or tax period in which the 236  
taxpayer employs at least two hundred employees more than the 237  
number of employees the taxpayer employed on June 30, 2011. 238

(10) If the taxpayer is a megaproject supplier, the 239  
percentage of the annual tax credit certified under division (D) 240  
(7) of this section, up to one hundred per cent, that may be 241  
claimed by each megaproject operator to which the supplier 242  
directly sells tangible personal property, rather than by that 243  
supplier, on the condition that the megaproject operator 244  
continues to qualify as a megaproject operator. 245

(11) If the taxpayer is a megaproject operator or 246  
megaproject supplier, a requirement that the taxpayer continue 247  
to qualify as a megaproject operator or megaproject supplier, 248  
respectively, until the end of the last year for which the 249  
taxpayer qualifies for the credit authorized under this section. 250

(E) If a taxpayer fails to meet or comply with any 251  
condition or requirement set forth in a tax credit agreement, 252  
the tax credit authority may amend the agreement to reduce the 253  
percentage or term of the tax credit. The reduction of the 254  
percentage or term may take effect in the current taxable or 255  
calendar year. 256

(F) Projects that consist solely of point-of-final- 257  
purchase retail facilities are not eligible for a tax credit 258  
under this section. If a project consists of both point-of- 259  
final-purchase retail facilities and nonretail facilities, only 260  
the portion of the project consisting of the nonretail 261  
facilities is eligible for a tax credit and only the excess 262  
payroll from the nonretail facilities shall be considered when 263  
computing the amount of the tax credit. If a warehouse facility 264  
is part of a point-of-final-purchase retail facility and 265  
supplies only that facility, the warehouse facility is not 266  
eligible for a tax credit. Catalog distribution centers are not 267  
considered point-of-final-purchase retail facilities for the 268  
purposes of this division, and are eligible for tax credits 269  
under this section. 270

(G) Financial statements and other information submitted 271  
to the development services agency or the tax credit authority 272  
by an applicant or recipient of a tax credit under this section, 273  
and any information taken for any purpose from such statements 274  
or information, are not public records subject to section 149.43 275  
of the Revised Code. However, the chairperson of the authority 276  
may make use of the statements and other information for 277  
purposes of issuing public reports or in connection with court 278  
proceedings concerning tax credit agreements under this section. 279  
Upon the request of the tax commissioner or, if the applicant or 280  
recipient is an insurance company, upon the request of the 281

superintendent of insurance, the chairperson of the authority 282  
shall provide to the commissioner or superintendent any 283  
statement or information submitted by an applicant or recipient 284  
of a tax credit in connection with the credit. The commissioner 285  
or superintendent shall preserve the confidentiality of the 286  
statement or information. 287

(H) A taxpayer claiming a credit under this section shall 288  
submit to the tax commissioner or, if the taxpayer is an 289  
insurance company, to the superintendent of insurance, a copy of 290  
the director of development services' certificate of 291  
verification under division (D) (7) of this section with the 292  
taxpayer's tax report or return for the taxable year or for the 293  
calendar year that includes the tax period. Failure to submit a 294  
copy of the certificate with the report or return does not 295  
invalidate a claim for a credit if the taxpayer submits a copy 296  
of the certificate to the commissioner or superintendent within 297  
the time prescribed by section 5703.0510 of the Revised Code or 298  
within thirty days after the commissioner or superintendent 299  
requests it. 300

(I) The director of development services, after 301  
consultation with the tax commissioner and the superintendent of 302  
insurance and in accordance with Chapter 119. of the Revised 303  
Code, shall adopt rules necessary to implement this section, 304  
including rules that establish a procedure to be followed by the 305  
tax credit authority and the development services agency in the 306  
event the authority considers a taxpayer's application for which 307  
it receives a recommendation under division (C) (2) (a) of this 308  
section but does not approve it. The rules may provide for 309  
recipients of tax credits under this section to be charged fees 310  
to cover administrative costs of the tax credit program. For the 311  
purposes of these rules, a qualifying work-from-home employee 312

shall be considered to be an employee employed at the 313  
applicant's project location. The fees collected shall be 314  
credited to the tax incentives operating fund created in section 315  
122.174 of the Revised Code. At the time the director gives 316  
public notice under division (A) of section 119.03 of the 317  
Revised Code of the adoption of the rules, the director shall 318  
submit copies of the proposed rules to the chairpersons of the 319  
standing committees on economic development in the senate and 320  
the house of representatives. 321

(J) For the purposes of this section, a taxpayer may 322  
include a partnership, a corporation that has made an election 323  
under subchapter S of chapter one of subtitle A of the Internal 324  
Revenue Code, or any other business entity through which income 325  
flows as a distributive share to its owners. A partnership, S- 326  
corporation, or other such business entity may elect to pass the 327  
credit received under this section through to the persons to 328  
whom the income or profit of the partnership, S-corporation, or 329  
other entity is distributed. The election shall be made on the 330  
annual report required under division (D)(6) of this section. 331  
The election applies to and is irrevocable for the credit for 332  
which the report is submitted. If the election is made, the 333  
credit shall be apportioned among those persons in the same 334  
proportions as those in which the income or profit is 335  
distributed. 336

(K)(1) If the director of development services determines 337  
that a taxpayer who has received a credit under this section is 338  
not complying with the requirements of the agreement, the 339  
director shall notify the tax credit authority of the 340  
noncompliance. After receiving such a notice, and after giving 341  
the taxpayer an opportunity to explain the noncompliance, the 342  
tax credit authority may require the taxpayer to refund to this 343

|  |     |
|--|-----|
| state a portion of the credit in accordance with the following:  | 344 |
| (a) If the taxpayer fails to comply with the requirement         | 345 |
| under division (D) (3) of this section, an amount determined in  | 346 |
| accordance with the following:                                   | 347 |
| (i) If the taxpayer maintained operations at the project         | 348 |
| location for a period less than or equal to the term of the      | 349 |
| credit, an amount not exceeding one hundred per cent of the sum  | 350 |
| of any credits allowed and received under this section;          | 351 |
| (ii) If the taxpayer maintained operations at the project        | 352 |
| location for a period longer than the term of the credit, but    | 353 |
| less than the greater of seven years or the term of the credit   | 354 |
| plus three years, an amount not exceeding seventy-five per cent  | 355 |
| of the sum of any credits allowed and received under this        | 356 |
| section.   | 357 |
| (b) If, on the metric evaluation date, the taxpayer fails        | 358 |
| to substantially meet the job creation, payroll, or investment   | 359 |
| requirements included in the agreement, an amount determined at  | 360 |
| the discretion of the authority;                                 | 361 |
| (c) If the taxpayer fails to substantially maintain the          | 362 |
| number of new full-time equivalent employees or amount of        | 363 |
| payroll required under the agreement at any time during the term | 364 |
| of the agreement after the metric evaluation date, an amount     | 365 |
| determined at the discretion of the authority.                   | 366 |
| (2) If a taxpayer files for bankruptcy and fails as              | 367 |
| described in division (K) (1) (a), (b), or (c) of this section,  | 368 |
| the director may immediately commence an action to recoup an     | 369 |
| amount not exceeding one hundred per cent of the sum of any      | 370 |
| credits received by the taxpayer under this section.             | 371 |
| (3) In determining the portion of the tax credit to be           | 372 |

refunded to this state, the tax credit authority shall consider 373  
the effect of market conditions on the taxpayer's project and 374  
whether the taxpayer continues to maintain other operations in 375  
this state. After making the determination, the authority shall 376  
certify the amount to be refunded to the tax commissioner or 377  
superintendent of insurance, as appropriate. If the amount is 378  
certified to the commissioner, the commissioner shall make an 379  
assessment for that amount against the taxpayer under Chapter 380  
5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the 381  
amount is certified to the superintendent, the superintendent 382  
shall make an assessment for that amount against the taxpayer 383  
under Chapter 5725. or 5729. of the Revised Code. The time 384  
limitations on assessments under those chapters do not apply to 385  
an assessment under this division, but the commissioner or 386  
superintendent, as appropriate, shall make the assessment within 387  
one year after the date the authority certifies to the 388  
commissioner or superintendent the amount to be refunded. 389

(L) On or before the first day of August each year, the 390  
director of development services shall submit a report to the 391  
governor, the president of the senate, and the speaker of the 392  
house of representatives on the tax credit program under this 393  
section. The report shall include information on the number of 394  
agreements that were entered into under this section during the 395  
preceding calendar year, a description of the project that is 396  
the subject of each such agreement, and an update on the status 397  
of projects under agreements entered into before the preceding 398  
calendar year. 399

(M) There is hereby created the tax credit authority, 400  
which consists of the director of development services and four 401  
other members appointed as follows: the governor, the president 402  
of the senate, and the speaker of the house of representatives 403

each shall appoint one member who shall be a specialist in 404  
economic development; the governor also shall appoint a member 405  
who is a specialist in taxation. Terms of office shall be for 406  
four years. Each member shall serve on the authority until the 407  
end of the term for which the member was appointed. Vacancies 408  
shall be filled in the same manner provided for original 409  
appointments. Any member appointed to fill a vacancy occurring 410  
prior to the expiration of the term for which the member's 411  
predecessor was appointed shall hold office for the remainder of 412  
that term. Members may be reappointed to the authority. Members 413  
of the authority shall receive their necessary and actual 414  
expenses while engaged in the business of the authority. The 415  
director of development services shall serve as chairperson of 416  
the authority, and the members annually shall elect a vice- 417  
chairperson from among themselves. Three members of the 418  
authority constitute a quorum to transact and vote on the 419  
business of the authority. The majority vote of the membership 420  
of the authority is necessary to approve any such business, 421  
including the election of the vice-chairperson. 422

The director of development services may appoint a 423  
professional employee of the development services agency to 424  
serve as the director's substitute at a meeting of the 425  
authority. The director shall make the appointment in writing. 426  
In the absence of the director from a meeting of the authority, 427  
the appointed substitute shall serve as chairperson. In the 428  
absence of both the director and the director's substitute from 429  
a meeting, the vice-chairperson shall serve as chairperson. 430

(N) For purposes of the credits granted by this section 431  
against the taxes imposed under sections 5725.18 and 5729.03 of 432  
the Revised Code, "taxable year" means the period covered by the 433  
taxpayer's annual statement to the superintendent of insurance. 434

(O) On or before the first day of March of each of the 435  
five calendar years beginning with 2014, each taxpayer subject 436  
to an agreement with the tax credit authority under this section 437  
on the basis of home-based employees shall report the number of 438  
home-based employees and other employees employed by the 439  
taxpayer in this state to the development services agency. 440

(P) On or before the first day of January of 2019, the 441  
director of development services shall submit a report to the 442  
governor, the president of the senate, and the speaker of the 443  
house of representatives on the effect of agreements entered 444  
into under this section in which the taxpayer included home- 445  
based employees in the computation of income tax revenue, as 446  
that term was defined in this section prior to the amendment of 447  
this section by H.B. 64 of the 131st general assembly. The 448  
report shall include information on the number of such 449  
agreements that were entered into in the preceding six years, a 450  
description of the projects that were the subjects of such 451  
agreements, and an analysis of nationwide home-based employment 452  
trends, including the number of home-based jobs created from 453  
July 1, 2011, through June 30, 2017, and a description of any 454  
home-based employment tax incentives provided by other states 455  
during that time. 456

(Q) The director of development services may require any 457  
agreement entered into under this section for a tax credit 458  
computed on the basis of home-based employees to contain a 459  
provision that the taxpayer makes available health care benefits 460  
and tuition reimbursement to all employees. 461

(R) Original agreements approved by the tax credit 462  
authority under this section in 2014 or 2015 before September 463  
29, 2015, may be revised at the request of the taxpayer to 464

conform with the amendments to this section and sections 465  
5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by 466  
H.B. 64 of the 131st general assembly, upon mutual agreement of 467  
the taxpayer and the development services agency, and approval 468  
by the tax credit authority. 469

(S) (1) As used in division (S) of this section: 470

(a) "Eligible agreement" means an agreement approved by 471  
the tax credit authority under this section on or before 472  
December 31, 2013. 473

(b) "Reporting period" means a period corresponding to the 474  
annual report required under division (D) (6) of this section. 475

(c) "Income tax revenue" has the same meaning as under 476  
this section as it existed before September 29, 2015, the 477  
effective date of the amendment of this section by H.B. 64 of 478  
the 131st general assembly. 479

(2) In calendar year 2016 and thereafter, the tax credit 480  
authority shall annually determine a withholding adjustment 481  
factor to be used in the computation of income tax revenue for 482  
eligible agreements. The withholding adjustment factor shall be 483  
a numerical percentage that equals the percentage that employer 484  
income tax withholding rates have been increased or decreased as 485  
a result of changes in the income tax rates prescribed by 486  
section 5747.02 of the Revised Code by amendment of that section 487  
taking effect on or after June 29, 2013. 488

(3) Except as provided in division (S) (4) of this section, 489  
for reporting periods ending in 2015 and thereafter for 490  
taxpayers subject to eligible agreements, the tax credit 491  
authority shall adjust the income tax revenue reported on the 492  
taxpayer's annual report by multiplying the withholding 493

|  |                                 |
|--|---------------------------------|
| adjustment factor by the taxpayer's income tax revenue and doing one of the following:   | 494<br>495                      |
| (a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of that section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.   | 496<br>497<br>498<br>499        |
| (b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of that section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.  | 500<br>501<br>502<br>503        |
| (4) Division (S) (3) of this section shall not apply unless all of the following apply for the reporting period with respect to the eligible agreement:  | 504<br>505<br>506               |
| (a) The taxpayer has achieved one hundred per cent of the new employment commitment identified in the agreement.   | 507<br>508                      |
| (b) If applicable, the taxpayer has achieved one hundred per cent of the new payroll commitment identified in the agreement.   | 509<br>510<br>511               |
| (c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.  | 512<br>513<br>514               |
| (5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (S) (4) (a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (S) of this section for an ensuing reporting period. | 515<br>516<br>517<br>518<br>519 |
| <u>(T) The director of development services shall notify the tax commissioner if the director determines that a megaproject</u>  | 520<br>521                      |

operator or megaproject supplier is not in compliance with the 522  
agreement pursuant to a review conducted under division (D) (7) 523  
of this section. 524

**Sec. 3735.65.** As used in sections 3735.65 to 3735.70 of 525  
the Revised Code: 526

(A) "Housing officer" means an officer or agency of a 527  
municipal corporation or county designated by the legislative 528  
authority of the municipal corporation or county, pursuant to 529  
section 3735.66 of the Revised Code, for each community 530  
reinvestment area to administer sections 3735.65 to 3735.69 of 531  
the Revised Code. One officer or agency may be designated as the 532  
housing officer for more than one community reinvestment area. 533

(B) "Community reinvestment area" means an area within a 534  
municipal corporation or unincorporated area of a county for 535  
which the legislative authority of the municipal corporation or, 536  
for the unincorporated area, of the county, has adopted a 537  
resolution under section 3735.66 of the Revised Code describing 538  
the boundaries of the area and containing a statement of finding 539  
that the area included in the description is one in which 540  
housing facilities or structures of historical significance are 541  
located and new housing construction and repair of existing 542  
facilities or structures are discouraged. 543

(C) "Remodeling" means any change made in a structure for 544  
the purpose of making it structurally more sound, more 545  
habitable, or for the purpose of improving its appearance. 546

(D) "Structure of historical or architectural 547  
significance" means those designated as such by resolution of 548  
the legislative authority of a municipal corporation, for those 549  
located in a municipal corporation, or the county, for those 550

located in the unincorporated area of the county based on age, 551  
rarity, architectural quality, or because of a previous 552  
designation by a historical society, association, or agency. 553

(E) "Megaproject," "megaproject operator," and 554  
"megaproject supplier" have the same meanings as in section 555  
122.17 of the Revised Code. 556

**Sec. 3735.67.** (A) The owner of real property located in a 557  
community reinvestment area and eligible for exemption from 558  
taxation under a resolution adopted pursuant to section 3735.66 559  
of the Revised Code may file an application for an exemption 560  
from real property taxation of a percentage of the assessed 561  
valuation of a new structure, or of the increased assessed 562  
valuation of an existing structure after remodeling began, if 563  
the new structure or remodeling is completed after the effective 564  
date of the resolution adopted pursuant to section 3735.66 of 565  
the Revised Code. The application shall be filed with the 566  
housing officer designated for the community reinvestment area 567  
in which the property is located. If any part of the new 568  
structure or remodeled structure that would be exempted is of 569  
real property to be used for commercial or industrial purposes, 570  
the legislative authority and the owner of the property shall 571  
enter into a written agreement pursuant to section 3735.671 of 572  
the Revised Code prior to commencement of construction or 573  
remodeling; if such an agreement is subject to approval by the 574  
board of education of the school district within the territory 575  
of which the property is or will be located, the agreement shall 576  
not be formally approved by the legislative authority until the 577  
board of education approves the agreement in the manner 578  
prescribed by that section. 579

(B) The housing officer shall verify the construction of 580

the new structure or the cost of the remodeling of the existing 581  
structure and the facts asserted in the application. The housing 582  
officer shall determine whether the construction or remodeling 583  
meets the requirements for an exemption under this section. In 584  
cases involving a structure of historical or architectural 585  
significance, the housing officer shall not determine whether 586  
the remodeling meets the requirements for a tax exemption unless 587  
the appropriateness of the remodeling has been certified, in 588  
writing, by the society, association, agency, or legislative 589  
authority that has designated the structure or by any 590  
organization or person authorized, in writing, by such society, 591  
association, agency, or legislative authority to certify the 592  
appropriateness of the remodeling. 593

(C) If the construction or remodeling meets the 594  
requirements for exemption, the housing officer shall forward 595  
the application to the county auditor with a certification as to 596  
the division of this section under which the exemption is 597  
granted, and the period and percentage of the exemption as 598  
determined by the legislative authority pursuant to that 599  
division. If the construction or remodeling is of commercial or 600  
industrial property and the legislative authority is not 601  
required to certify a copy of a resolution under section 602  
3735.671 of the Revised Code, the housing officer shall comply 603  
with the notice requirements prescribed under section 5709.83 of 604  
the Revised Code, unless the board has adopted a resolution 605  
under that section waiving its right to receive such a notice. 606

(D) Except as provided in division (F) of this section, 607  
the tax exemption shall first apply in the year the construction 608  
or remodeling would first be taxable but for this section. In 609  
the case of remodeling that qualifies for exemption, a 610  
percentage, not to exceed one hundred per cent, of the increased 611

assessed valuation of an existing structure after remodeling 612  
began shall be exempted from real property taxation. In the case 613  
of construction of a structure that qualifies for exemption, a 614  
percentage, not to exceed one hundred per cent, of the assessed 615  
value of the structure shall be exempted from real property 616  
taxation. In either case, the percentage shall be the percentage 617  
set forth in the agreement if the structure or remodeling is to 618  
be used for commercial or industrial purposes, or the percentage 619  
set forth in the resolution describing the community 620  
reinvestment area if the structure or remodeling is to be used 621  
for residential purposes. 622

The construction of new structures and the remodeling of 623  
existing structures are hereby declared to be a public purpose 624  
for which exemptions from real property taxation may be granted 625  
for the following periods: 626

(1) For every dwelling and commercial or industrial 627  
properties, located within the same community reinvestment area, 628  
upon which the cost of remodeling is at least two thousand five 629  
hundred dollars in the case of a dwelling containing not more 630  
than two family units or at least five thousand dollars in the 631  
case of all other property, a period to be determined by the 632  
legislative authority adopting the resolution, but not exceeding 633  
fifteen years. The period of exemption for a dwelling described 634  
in division (D) (1) of this section may be extended by a 635  
legislative authority for up to an additional ten years if the 636  
dwelling is a structure of historical or architectural 637  
significance, is a certified historic structure that has been 638  
subject to federal tax treatment under 26 U.S.C. 47 and 170(h), 639  
and units within the structure have been leased to individual 640  
tenants for five consecutive years; 641

(2) Except as provided in division (F) of this section, 642  
for construction of every dwelling, and commercial or industrial 643  
structure located within the same community reinvestment area, a 644  
period to be determined by the legislative authority adopting 645  
the resolution, but not exceeding fifteen years. The period of 646  
exemption for construction of a commercial or industrial 647  
structure may be extended by a legislative authority for up to 648  
an additional fifteen years if the structure is situated on the 649  
site of a megaproject or is owned and occupied by a megaproject 650  
supplier. 651

(E) Any person, board, or officer authorized by section 652  
5715.19 of the Revised Code to file complaints with the county 653  
board of revision may file a complaint with the housing officer 654  
challenging the continued exemption of any property granted an 655  
exemption under this section. A complaint against exemption 656  
shall be filed prior to the thirty-first day of December of the 657  
tax year for which taxation of the property is requested. The 658  
housing officer shall determine whether the property continues 659  
to meet the requirements for exemption and shall certify the 660  
housing officer's findings to the complainant. If the housing 661  
officer determines that the property does not meet the 662  
requirements for exemption, the housing officer shall notify the 663  
county auditor, who shall correct the tax list and duplicate 664  
accordingly. 665

(F) The owner of a dwelling constructed in a community 666  
reinvestment area may file an application for an exemption after 667  
the year the construction first became subject to taxation. The 668  
application shall be processed in accordance with the procedures 669  
prescribed under this section and shall be granted if the 670  
construction that is the subject of the application otherwise 671  
meets the requirements for an exemption under this section. If 672

approved, the exemption sought in the application first applies 673  
in the year the application is filed. An exemption approved 674  
pursuant to this division continues only for those years 675  
remaining in the period described in division (D)(2) of this 676  
section. No exemption may be claimed for any year in that period 677  
that precedes the year in which the application is filed. 678

**Sec. 3735.671.** (A) If construction or remodeling of 679  
commercial or industrial property is to be exempted from 680  
taxation pursuant to section 3735.67 of the Revised Code, the 681  
legislative authority and the owner of the property, prior to 682  
the commencement of construction or remodeling, shall enter into 683  
a written agreement, binding on both parties for a period of 684  
time that does not end prior to the end of the period of the 685  
exemption, that includes all of the information and statements 686  
prescribed by this section. Agreements may include terms not 687  
prescribed by this section, but such terms shall in no way 688  
derogate from the information and statements prescribed by this 689  
section. 690

(1) Except as otherwise provided in division (A)(2) or (3) 691  
of this section, an agreement entered into under this section 692  
shall not be approved by the legislative authority unless the 693  
board of education of the city, local, or exempted village 694  
school district within the territory of which the property is or 695  
will be located approves the agreement. For the purpose of 696  
obtaining such approval, the legislative authority shall certify 697  
a copy of the agreement to the board of education not later than 698  
forty-five days prior to approving the agreement, excluding 699  
Saturday, Sunday, and a legal holiday as defined in section 1.14 700  
of the Revised Code. The board of education, by resolution 701  
adopted by a majority of the board, shall approve or disapprove 702  
the agreement and certify a copy of the resolution to the 703

legislative authority not later than fourteen days prior to the 704  
date stipulated by the legislative authority as the date upon 705  
which approval of the agreement is to be formally considered by 706  
the legislative authority. The board of education may include in 707  
the resolution conditions under which the board would approve 708  
the agreement. The legislative authority may approve an 709  
agreement at any time after the board of education certifies its 710  
resolution approving the agreement to the legislative authority, 711  
or, if the board approves the agreement conditionally, at any 712  
time after the conditions are agreed to by the board and the 713  
legislative authority. 714

(2) Approval of an agreement by the board of education is 715  
not required under division (A)(1) of this section if, for each 716  
tax year the real property is exempted from taxation, the sum of 717  
the following quantities, as estimated at or prior to the time 718  
the agreement is formally approved by the legislative authority, 719  
equals or exceeds fifty per cent of the amount of taxes, as 720  
estimated at or prior to that time, that would have been charged 721  
and payable that year upon the real property had that property 722  
not been exempted from taxation: 723

(a) The amount of taxes charged and payable on any portion 724  
of the assessed valuation of the new structure or of the 725  
increased assessed valuation of an existing structure after 726  
remodeling began that will not be exempted from taxation under 727  
the agreement; 728

(b) The amount of taxes charged and payable on tangible 729  
personal property located on the premises of the new structure 730  
or of the structure to be remodeled under the agreement, whether 731  
payable by the owner of the structure or by a related member, as 732  
defined in section 5733.042 of the Revised Code without regard 733

to division (B) of that section. 734

(c) The amount of any cash payment by the owner of the new 735  
structure or structure to be remodeled to the school district, 736  
the dollar value, as mutually agreed to by the owner and the 737  
board of education, of any property or services provided by the 738  
owner of the property to the school district, whether by gift, 739  
loan, or otherwise, and any payment by the legislative authority 740  
to the school district pursuant to section 5709.82 of the 741  
Revised Code. 742

The estimates of quantities used for purposes of division 743  
(A) (2) of this section shall be estimated by the legislative 744  
authority. The legislative authority shall certify to the board 745  
of education that the estimates have been made in good faith. 746  
Departures of the actual quantities from the estimates 747  
subsequent to approval of the agreement by the board of 748  
education do not invalidate the agreement. 749

(3) If a board of education has adopted a resolution 750  
waiving its right to approve agreements and the resolution 751  
remains in effect, approval of an agreement by the board is not 752  
required under this division. If a board of education has 753  
adopted a resolution allowing a legislative authority to deliver 754  
the notice required under this division fewer than forty-five 755  
business days prior to the legislative authority's execution of 756  
the agreement, the legislative authority shall deliver the 757  
notice to the board not later than the number of days prior to 758  
such execution as prescribed by the board in its resolution. If 759  
a board of education adopts a resolution waiving its right to 760  
approve agreements or shortening the notification period, the 761  
board shall certify a copy of the resolution to the legislative 762  
authority. If the board of education rescinds such a resolution, 763

it shall certify notice of the rescission to the legislative 764  
authority. 765

(B) Each agreement shall include the following 766  
information: 767

(1) The names of all parties to the agreement; 768

(2) A description of the remodeling or construction, 769  
whether or not to be exempted from taxation, including existing 770  
or new structure size and cost thereof; the value of machinery, 771  
equipment, furniture, and fixtures, including an itemization of 772  
the value of machinery, equipment, furniture, and fixtures used 773  
at another location in this state prior to the agreement and 774  
relocated or to be relocated from that location to the property, 775  
and the value of machinery, equipment, furniture, and fixtures 776  
at the facility prior to the execution of the agreement; the 777  
value of inventory at the property, including an itemization of 778  
the value of inventory held at another location in this state 779  
prior to the agreement and relocated or to be relocated from 780  
that location to the property, and the value of inventory held 781  
at the property prior to the execution of the agreement; 782

(3) The scheduled starting and completion dates of 783  
remodeling or construction of real property or of investments 784  
made in machinery, equipment, furniture, fixtures, and 785  
inventory; 786

(4) Estimates of the number of employee positions to be 787  
created each year of the agreement and of the number of employee 788  
positions retained by the owner due to the remodeling or 789  
construction, itemized as to the number of full-time, part-time, 790  
permanent, and temporary positions; 791

(5) Estimates of the dollar amount of payroll attributable 792

to the positions set forth in division (B) (4) of this section, 793  
similarly itemized; 794

(6) The number of employee positions, if any, at the 795  
property and at any other location in this state at the time the 796  
agreement is executed, itemized as to the number of full-time, 797  
part-time, permanent, and temporary positions. 798

(C) Each agreement shall set forth the following 799  
information and incorporate the following statements: 800

(1) A description of real property to be exempted from 801  
taxation under the agreement, the percentage of the assessed 802  
valuation of the real property exempted from taxation, and the 803  
period for which the exemption is granted, accompanied by the 804  
statement: "The exemption commences the first year for which the 805  
real property would first be taxable were that property not 806  
exempted from taxation. No exemption shall commence 807  
after ..... (insert date) nor extend beyond ..... 808  
(insert date)."

(2) "..... (insert name of owner) shall pay such real 810  
property taxes as are not exempted under this agreement and are 811  
charged against such property and shall file all tax reports and 812  
returns as required by law. If ..... (insert name of owner) 813  
fails to pay such taxes or file such returns and reports, 814  
exemptions from taxation granted under this agreement are 815  
rescinded beginning with the year for which such taxes are 816  
charged or such reports or returns are required to be filed and 817  
thereafter."

(3) "..... (insert name of owner) hereby certifies 819  
that at the time this agreement is executed, ..... (insert 820  
name of owner) does not owe any delinquent real or tangible 821

personal property taxes to any taxing authority of the State of 822  
Ohio, and does not owe delinquent taxes for which ..... 823  
(insert name of owner) is liable under Chapter 5733., 5735., 824  
5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, 825  
or, if such delinquent taxes are owed, ..... (insert name 826  
of owner) currently is paying the delinquent taxes pursuant to 827  
an undertaking enforceable by the State of Ohio or an agent or 828  
instrumentality thereof, has filed a petition in bankruptcy 829  
under 11 U.S.C.A. 101, et seq., or such a petition has been 830  
filed against ..... (insert name of owner). For the 831  
purposes of this certification, delinquent taxes are taxes that 832  
remain unpaid on the latest day prescribed for payment without 833  
penalty under the chapter of the Revised Code governing payment 834  
of those taxes." 835

(4) "..... (insert name of municipal corporation or 836  
county) shall perform such acts as are reasonably necessary or 837  
appropriate to effect, claim, reserve, and maintain exemptions 838  
from taxation granted under this agreement including, without 839  
limitation, joining in the execution of all documentation and 840  
providing any necessary certificates required in connection with 841  
such exemptions." 842

(5) "If for any reason..... (insert name of 843  
municipal corporation or county) revokes the designation of the 844  
area, entitlements granted under this agreement shall continue 845  
for the number of years specified under this agreement, 846  
unless ..... (insert name of owner) materially fails to 847  
fulfill its obligations under this agreement 848  
and ..... (insert name of municipal corporation or 849  
county) terminates or modifies the exemptions from taxation 850  
pursuant to this agreement." 851

(6) "If ..... (insert name of owner) materially fails 852  
to fulfill its obligations under this agreement, or 853  
if ..... (insert name of municipal corporation or county) 854  
determines that the certification as to delinquent taxes 855  
required by this agreement is fraudulent, ..... (insert 856  
name of municipal corporation or county) may terminate or modify 857  
the exemptions from taxation granted under this agreement." 858

(7) "..... (insert name of owner) shall provide to 859  
the proper tax incentive review council any information 860  
reasonably required by the council to evaluate the applicant's 861  
compliance with the agreement, including returns filed pursuant 862  
to section 5711.02 of the Ohio Revised Code if requested by the 863  
council." 864

(8) "This agreement is not transferable or assignable 865  
without the express, written approval of ..... (insert name 866  
of municipal corporation or county)." 867

(9) "Exemptions from taxation granted under this agreement 868  
shall be revoked if it is determined that ..... (insert 869  
name of owner), any successor to that person, or any related 870  
member (as those terms are defined in division (E) of section 871  
3735.671 of the Ohio Revised Code) has violated the prohibition 872  
against entering into this agreement under division (E) of 873  
section 3735.671 or section 5709.62 or 5709.63 of the Ohio 874  
Revised Code prior to the time prescribed by that division or 875  
either of those sections." 876

(10) "..... (insert name of owner) and ..... 877  
(insert name of municipal corporation or county) acknowledge 878  
that this agreement must be approved by formal action of the 879  
legislative authority of ..... (insert name of municipal 880  
corporation or county) as a condition for the agreement to take 881

effect. This agreement takes effect upon such approval." 882

(11) If the agreement relates to a commercial or 883  
industrial structure subject to the extension for megaprojects 884  
or megaproject suppliers described in division (D) (2) of section 885  
3735.67 of the Revised Code, both of the following: 886

(a) A requirement that the owner of the structure annually 887  
certify to the legislative authority whether the megaproject 888  
operator of the megaproject upon which the structure is situated 889  
or the megaproject supplier, as applicable, holds a certificate 890  
issued under division (D) (7) of section 122.17 of the Revised 891  
Code on the first day of the current tax year; 892

(b) A provision authorizing the legislative authority to 893  
terminate the exemption for current and subsequent tax years if 894  
the megaproject operator or megaproject supplier does not hold a 895  
certificate issued under division (D) (7) of section 122.17 of 896  
the Revised Code on the first day of the current tax year. 897

The statement described in division (C) (6) of this section 898  
may include the following statement, appended at the end of the 899  
statement: ", and may require the repayment of the amount of 900  
taxes that would have been payable had the property not been 901  
exempted from taxation under this agreement." If the agreement 902  
includes a statement requiring repayment of exempted taxes, it 903  
also may authorize the legislative authority to secure repayment 904  
of such taxes by a lien on the exempted property in the amount 905  
required to be repaid. Such a lien shall attach, and may be 906  
perfected, collected, and enforced, in the same manner as a 907  
mortgage lien on real property, and shall otherwise have the 908  
same force and effect as a mortgage lien on real property. 909

(D) Except as otherwise provided in this division, an 910

agreement entered into under this section shall require that the 911  
owner pay an annual fee equal to the greater of one per cent of 912  
the amount of taxes exempted under the agreement or five hundred 913  
dollars; provided, however, that if the value of the incentives 914  
exceeds two hundred fifty thousand dollars, the fee shall not 915  
exceed two thousand five hundred dollars. The fee shall be 916  
payable to the legislative authority once per year for each year 917  
the agreement is effective on the days and in the form specified 918  
in the agreement. Fees paid shall be deposited in a special fund 919  
created for such purpose by the legislative authority and shall 920  
be used by the legislative authority exclusively for the purpose 921  
of complying with section 3735.672 of the Revised Code and by 922  
the tax incentive review council created under section 5709.85 923  
of the Revised Code exclusively for the purposes of performing 924  
the duties prescribed under that section. The legislative 925  
authority may waive or reduce the amount of the fee, but such 926  
waiver or reduction does not affect the obligations of the 927  
legislative authority or the tax incentive review council to 928  
comply with section 3735.672 or 5709.85 of the Revised Code. 929

(E) If any person that is party to an agreement granting 930  
an exemption from taxation discontinues operations at the 931  
structure to which that exemption applies prior to the 932  
expiration of the term of the agreement, that person, any 933  
successor to that person, and any related member shall not enter 934  
into an agreement under this section or section 5709.62, 935  
5709.63, or 5709.632 of the Revised Code, and no legislative 936  
authority shall enter into such an agreement with such a person, 937  
successor, or related member, prior to the expiration of five 938  
years after the discontinuation of operations. As used in this 939  
division, "successor" means a person to which the assets or 940  
equity of another person has been transferred, which transfer 941

resulted in the full or partial nonrecognition of gain or loss, 942  
or resulted in a carryover basis, both as determined by rule 943  
adopted by the tax commissioner. "Related member" has the same 944  
meaning as defined in section 5733.042 of the Revised Code 945  
without regard to division (B) of that section. 946

The director of development services shall review all 947  
agreements submitted to the director under division (F) of this 948  
section for the purpose of enforcing this division. If the 949  
director determines there has been a violation of this division, 950  
the director shall notify the legislative authority of such 951  
violation, and the legislative authority immediately shall 952  
revoke the exemption granted under the agreement. 953

(F) When an agreement is entered into under this section, 954  
the legislative authority authorizing the agreement shall 955  
forward a copy of the agreement to the director of development 956  
services within fifteen days after the agreement is entered 957  
into. 958

**Sec. 5709.61.** As used in sections 5709.61 to 5709.69 of 959  
the Revised Code: 960

(A) "Enterprise zone" or "zone" means any of the 961  
following: 962

(1) An area with a single continuous boundary designated 963  
in the manner set forth in section 5709.62 or 5709.63 of the 964  
Revised Code and certified by the director of development as 965  
having a population of at least four thousand according to the 966  
best and most recent data available to the director and having 967  
at least two of the following characteristics: 968

(a) It is located in a municipal corporation defined by 969  
the United States office of management and budget as a principal 970

city of a metropolitan statistical area; 971

(b) It is located in a county designated as being in the 972  
"Appalachian region" under the "Appalachian Regional Development 973  
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 974

(c) Its average rate of unemployment, during the most 975  
recent twelve-month period for which data are available, is 976  
equal to at least one hundred twenty-five per cent of the 977  
average rate of unemployment for the state of Ohio for the same 978  
period; 979

(d) There is a prevalence of commercial or industrial 980  
structures in the area that are vacant or demolished, or are 981  
vacant and the taxes charged thereon are delinquent, and 982  
certification of the area as an enterprise zone would likely 983  
result in the reduction of the rate of vacant or demolished 984  
structures or the rate of tax delinquency in the area; 985

(e) The population of all census tracts in the area, 986  
according to the federal census of 2000, decreased by at least 987  
ten per cent between the years 1980 and 2000; 988

(f) At least fifty-one per cent of the residents of the 989  
area have incomes of less than eighty per cent of the median 990  
income of residents of the municipal corporation or municipal 991  
corporations in which the area is located, as determined in the 992  
same manner specified under section 119(b) of the "Housing and 993  
Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 994  
5318, as amended; 995

(g) The area contains structures previously used for 996  
industrial purposes, but currently not so used due to age, 997  
obsolescence, deterioration, relocation of the former occupant's 998  
operations, or cessation of operations resulting from 999

unfavorable economic conditions either generally or in a 1000  
specific economic sector; 1001

(h) It is located within one or more adjacent city, local, 1002  
or exempted village school districts, the income-weighted tax 1003  
capacity of each of which is less than seventy per cent of the 1004  
average of the income-weighted tax capacity of all city, local, 1005  
or exempted village school districts in the state according to 1006  
the most recent data available to the director from the 1007  
department of taxation. 1008

The director of development shall adopt rules in 1009  
accordance with Chapter 119. of the Revised Code establishing 1010  
conditions constituting the characteristics described in 1011  
divisions (A) (1) (d), (g), and (h) of this section. 1012

If an area could not be certified as an enterprise zone 1013  
unless it satisfied division (A) (1) (g) of this section, the 1014  
legislative authority may enter into agreements in that zone 1015  
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 1016  
only if such agreements result in the development of the 1017  
facilities described in that division, the parcel of land on 1018  
which such facilities are situated, or adjacent parcels. The 1019  
director of development annually shall review all agreements in 1020  
such zones to determine whether the agreements have resulted in 1021  
such development; if the director determines that the agreements 1022  
have not resulted in such development, the director immediately 1023  
shall revoke certification of the zone and notify the 1024  
legislative authority of such revocation. Any agreements entered 1025  
into prior to revocation under this paragraph shall continue in 1026  
effect for the period provided in the agreement. 1027

(2) An area with a single continuous boundary designated 1028  
in the manner set forth in section 5709.63 of the Revised Code 1029

and certified by the director of development as having all of 1030  
the following characteristics: 1031

(a) Being located within a county that contains a 1032  
population of three hundred thousand or less; 1033

(b) Having a population of at least one thousand according 1034  
to the best and most recent data available to the director; 1035

(c) Having at least two of the characteristics described 1036  
in divisions (A) (1) (b) to (h) of this section. 1037

(3) An area with a single continuous boundary designated 1038  
in the manner set forth under division (A) (1) of section 1039  
5709.632 of the Revised Code and certified by the director of 1040  
development as having a population of at least four thousand, or 1041  
under division (A) (2) of that section and certified as having a 1042  
population of at least one thousand, according to the best and 1043  
most recent data available to the director. 1044

(B) "Enterprise" means any form of business organization 1045  
including, but not limited to, any partnership, sole 1046  
proprietorship, or corporation, including an S corporation as 1047  
defined in section 1361 of the Internal Revenue Code and any 1048  
corporation that is majority ~~work-owned~~ worker-owned either 1049  
directly through the ownership of stock or indirectly through 1050  
participation in an employee stock ownership plan. 1051

(C) "Facility" means an enterprise's place of business in 1052  
a zone, including land, buildings, machinery, equipment, and 1053  
other materials, except inventory, used in business. "Facility" 1054  
includes land, buildings, machinery, production and station 1055  
equipment, other equipment, and other materials, except 1056  
inventory, used in business to generate electricity, provided 1057  
that, for purposes of sections 5709.61 to 5709.69 of the Revised 1058

Code, the value of the property at such a facility shall be 1059  
reduced by the value, if any, that is not apportioned under 1060  
section 5727.15 of the Revised Code to the taxing district in 1061  
which the facility is physically located. In the case of such a 1062  
facility that is physically located in two adjacent taxing 1063  
districts, the property located in each taxing district 1064  
constitutes a separate facility. 1065

"Facility" does not include any portion of an enterprise's 1066  
place of business used primarily for making retail sales unless 1067  
the place of business is located in an impacted city as defined 1068  
in section 1728.01 of the Revised Code or the board of education 1069  
of the city, local, or exempted village school district within 1070  
the territory of which the place of business is located adopts a 1071  
resolution waiving the exclusion of retail facilities under 1072  
section 5709.634 of the Revised Code. 1073

(D) "Vacant facility" means a facility that has been 1074  
vacant for at least ninety days immediately preceding the date 1075  
on which an agreement is entered into under section 5709.62 or 1076  
5709.63 of the Revised Code. 1077

(E) "Expand" means to make expenditures to add land, 1078  
buildings, machinery, equipment, or other materials, except 1079  
inventory, to a facility that equal at least ten per cent of the 1080  
market value of the facility prior to such expenditures, as 1081  
determined for the purposes of local property taxation. 1082

(F) "Renovate" means to make expenditures to alter or 1083  
repair a facility that equal at least fifty per cent of the 1084  
market value of the facility prior to such expenditures, as 1085  
determined for the purposes of local property taxation. 1086

(G) "Occupy" means to make expenditures to alter or repair 1087

a vacant facility equal to at least twenty per cent of the 1088  
market value of the facility prior to such expenditures, as 1089  
determined for the purposes of local property taxation. 1090

(H) "Project site" means all or any part of a facility 1091  
that is newly constructed, expanded, renovated, or occupied by 1092  
an enterprise. 1093

(I) "Project" means any undertaking by an enterprise to 1094  
establish a facility or to improve a project site by expansion, 1095  
renovation, or occupancy. 1096

(J) "Position" means the position of one full-time 1097  
employee performing a particular set of tasks and duties. 1098

(K) "Full-time employee" means an individual who is 1099  
employed for consideration by an enterprise for at least thirty- 1100  
five hours a week, or who renders any other standard of service 1101  
generally accepted by custom or specified by contract as full- 1102  
time employment. 1103

(L) "New employee" means a full-time employee first 1104  
employed by an enterprise at a facility that is a project site 1105  
after the enterprise enters an agreement under section 5709.62 1106  
or 5709.63 of the Revised Code. "New employee" does not include 1107  
an employee if, immediately prior to being employed by the 1108  
enterprise, the employee was employed by an enterprise that is a 1109  
related member or predecessor enterprise of that enterprise. 1110

(M) "Unemployed person" means any person who is totally 1111  
unemployed in this state, as that term is defined in division 1112  
(M) of section 4141.01 of the Revised Code, for at least ten 1113  
consecutive weeks immediately preceding that person's employment 1114  
at a facility that is a project site, or who is so unemployed 1115  
for at least twenty-six of the fifty-two weeks immediately 1116

preceding that person's employment at such a facility. 1117

(N) "JTPA eligible employee" means any individual who is 1118  
eligible for employment or training under the "Job Training 1119  
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 1120  
amended. 1121

(O) "First used in business" means that the property 1122  
referred to has not been used in business in this state by the 1123  
enterprise that owns it, or by an enterprise that is a related 1124  
member or predecessor enterprise of such an enterprise, other 1125  
than as inventory, prior to being used in business at a facility 1126  
as the result of a project. 1127

(P) "Training program" means any noncredit training 1128  
program or course of study that is offered by any state college 1129  
or university; university branch district; community college; 1130  
technical college; nonprofit college or university certified 1131  
under section 1713.02 of the Revised Code; school district; 1132  
joint vocational school district; school registered and 1133  
authorized to offer programs under section 3332.05 of the 1134  
Revised Code; an entity administering any federal, state, or 1135  
local adult education and training program; or any enterprise; 1136  
and that meets all of the following requirements: 1137

(1) It is approved by the director of development; 1138

(2) It is established or operated to satisfy the need of a 1139  
particular industry or enterprise for skilled or semi-skilled 1140  
employees; 1141

(3) An individual is required to complete the course or 1142  
program before filling a position at a project site. 1143

(Q) "Development" means to engage in the process of 1144  
clearing and grading land, making, installing, or constructing 1145

water distribution systems, sewers, sewage collection systems, 1146  
steam, gas, and electric lines, roads, curbs, gutters, 1147  
sidewalks, storm drainage facilities, and construction of other 1148  
facilities or buildings equal to at least fifty per cent of the 1149  
market value of the facility prior to the expenditures, as 1150  
determined for the purposes of local property taxation. 1151

(R) "Large manufacturing facility" means a single Ohio 1152  
facility that employed an average of at least one thousand 1153  
individuals during the five calendar years preceding an 1154  
agreement authorized under division (C) (3) of section 5709.62 or 1155  
division (B) (2) of section 5709.63 of the Revised Code. For 1156  
purposes of this division, both of the following apply: 1157

(1) A single Ohio manufacturing facility employed an 1158  
average of at least one thousand individuals during the five 1159  
calendar years preceding entering into such an agreement if one- 1160  
fifth of the sum of the number of employees employed on the 1161  
highest employment day during each of the five calendar years 1162  
equals or exceeds one thousand. 1163

(2) The highest employment day is the day or days during a 1164  
calendar year on which the number of employees employed at a 1165  
single Ohio manufacturing facility was greater than on any other 1166  
day during the calendar year. 1167

(S) "Business cycle" means the cycle of business activity 1168  
usually regarded as passing through alternating stages of 1169  
prosperity and depression. 1170

(T) "Making retail sales" means the effecting of point-of- 1171  
final-purchase transactions at a facility open to the consuming 1172  
public, wherein one party is obligated to pay the price and the 1173  
other party is obligated to provide a service or to transfer 1174

title to or possession of the item sold. 1175

(U) "Environmentally contaminated" means that hazardous 1176  
substances exist at a facility under conditions that have caused 1177  
or would cause the facility to be identified as contaminated by 1178  
the state or federal environmental protection agency. These may 1179  
include facilities located at sites identified in the master 1180  
sites list or similar database maintained by the state 1181  
environmental protection agency if the sites have been 1182  
investigated by the agency and found to be contaminated. 1183

(V) "Remediate" means to make expenditures to clean up an 1184  
environmentally contaminated facility so that it is no longer 1185  
environmentally contaminated that equal at least ten per cent of 1186  
the real property market value of the facility prior to such 1187  
expenditures as determined for the purposes of property 1188  
taxation. 1189

(W) "Related member" has the same meaning as defined in 1190  
section 5733.042 of the Revised Code without regard to division 1191  
(B) of that section, except that it is used with respect to an 1192  
enterprise rather than a taxpayer. 1193

(X) "Predecessor enterprise" means an enterprise from 1194  
which the assets or equity of another enterprise has been 1195  
transferred, which transfer resulted in the full or partial 1196  
nonrecognition of gain or loss, or resulted in a carryover 1197  
basis, both as determined by rule adopted by the tax 1198  
commissioner. 1199

(Y) "Successor enterprise" means an enterprise to which 1200  
the assets or equity of another enterprise has been transferred, 1201  
which transfer resulted in the full or partial nonrecognition of 1202  
gain or loss, or resulted in a carryover basis, both as 1203

determined by rule adopted by the tax commissioner. 1204

(Z) "Megaproject," "megaproject operator," and 1205  
"megaproject supplier" have the same meanings as in section 1206  
122.17 of the Revised Code. 1207

**Sec. 5709.62.** (A) In any municipal corporation that is 1208  
defined by the United States office of management and budget as 1209  
a principal city of a metropolitan statistical area, the 1210  
legislative authority of the municipal corporation may designate 1211  
one or more areas within its municipal corporation as proposed 1212  
enterprise zones. Upon designating an area, the legislative 1213  
authority shall petition the director of development services 1214  
for certification of the area as having the characteristics set 1215  
forth in division (A) (1) of section 5709.61 of the Revised Code 1216  
as amended by Substitute Senate Bill No. 19 of the 120th general 1217  
assembly. Except as otherwise provided in division (E) of this 1218  
section, on and after July 1, 1994, legislative authorities 1219  
shall not enter into agreements under this section unless the 1220  
legislative authority has petitioned the director and the 1221  
director has certified the zone under this section as amended by 1222  
that act; however, all agreements entered into under this 1223  
section as it existed prior to July 1, 1994, and the incentives 1224  
granted under those agreements shall remain in effect for the 1225  
period agreed to under those agreements. Within sixty days after 1226  
receiving such a petition, the director shall determine whether 1227  
the area has the characteristics set forth in division (A) (1) of 1228  
section 5709.61 of the Revised Code, and shall forward the 1229  
findings to the legislative authority of the municipal 1230  
corporation. If the director certifies the area as having those 1231  
characteristics, and thereby certifies it as a zone, the 1232  
legislative authority may enter into an agreement with an 1233  
enterprise under division (C) of this section. 1234

(B) Any enterprise that wishes to enter into an agreement 1235  
with a municipal corporation under division (C) of this section 1236  
shall submit a proposal to the legislative authority of the 1237  
municipal corporation on a form prescribed by the director of 1238  
development services, together with the application fee 1239  
established under section 5709.68 of the Revised Code. The form 1240  
shall require the following information: 1241

(1) An estimate of the number of new employees whom the 1242  
enterprise intends to hire, or of the number of employees whom 1243  
the enterprise intends to retain, within the zone at a facility 1244  
that is a project site, and an estimate of the amount of payroll 1245  
of the enterprise attributable to these employees; 1246

(2) An estimate of the amount to be invested by the 1247  
enterprise to establish, expand, renovate, or occupy a facility, 1248  
including investment in new buildings, additions or improvements 1249  
to existing buildings, machinery, equipment, furniture, 1250  
fixtures, and inventory; 1251

(3) A listing of the enterprise's current investment, if 1252  
any, in a facility as of the date of the proposal's submission. 1253

The enterprise shall review and update the listings 1254  
required under this division to reflect material changes, and 1255  
any agreement entered into under division (C) of this section 1256  
shall set forth final estimates and listings as of the time the 1257  
agreement is entered into. The legislative authority may, on a 1258  
separate form and at any time, require any additional 1259  
information necessary to determine whether an enterprise is in 1260  
compliance with an agreement and to collect the information 1261  
required to be reported under section 5709.68 of the Revised 1262  
Code. 1263

(C) Upon receipt and investigation of a proposal under 1264  
division (B) of this section, if the legislative authority finds 1265  
that the enterprise submitting the proposal is qualified by 1266  
financial responsibility and business experience to create and 1267  
preserve employment opportunities in the zone and improve the 1268  
economic climate of the municipal corporation, the legislative 1269  
authority may do one of the following: 1270

(1) Enter into an agreement with the enterprise under 1271  
which the enterprise agrees to establish, expand, renovate, or 1272  
occupy a facility and hire new employees, or preserve employment 1273  
opportunities for existing employees, in return for one or more 1274  
of the following incentives: 1275

(a) Exemption for a specified number of years, not to 1276  
exceed fifteen, of a specified portion, up to seventy-five per 1277  
cent, of the assessed value of tangible personal property first 1278  
used in business at the project site as a result of the 1279  
agreement. If an exemption for inventory is specifically granted 1280  
in the agreement pursuant to this division, the exemption 1281  
applies to inventory required to be listed pursuant to sections 1282  
5711.15 and 5711.16 of the Revised Code, except that, in the 1283  
instance of an expansion or other situations in which an 1284  
enterprise was in business at the facility prior to the 1285  
establishment of the zone, the inventory that is exempt is that 1286  
amount or value of inventory in excess of the amount or value of 1287  
inventory required to be listed in the personal property tax 1288  
return of the enterprise in the return for the tax year in which 1289  
the agreement is entered into. 1290

(b) Exemption for a specified number of years, not to 1291  
exceed fifteen, of a specified portion, up to seventy-five per 1292  
cent, of the increase in the assessed valuation of real property 1293

constituting the project site subsequent to formal approval of 1294  
the agreement by the legislative authority; 1295

(c) Provision for a specified number of years, not to 1296  
exceed fifteen, of any optional services or assistance that the 1297  
municipal corporation is authorized to provide with regard to 1298  
the project site. 1299

(2) Enter into an agreement under which the enterprise 1300  
agrees to remediate an environmentally contaminated facility, to 1301  
spend an amount equal to at least two hundred fifty per cent of 1302  
the true value in money of the real property of the facility 1303  
prior to remediation as determined for the purposes of property 1304  
taxation to establish, expand, renovate, or occupy the 1305  
remediated facility, and to hire new employees or preserve 1306  
employment opportunities for existing employees at the 1307  
remediated facility, in return for one or more of the following 1308  
incentives: 1309

(a) Exemption for a specified number of years, not to 1310  
exceed fifteen, of a specified portion, not to exceed fifty per 1311  
cent, of the assessed valuation of the real property of the 1312  
facility prior to remediation; 1313

(b) Exemption for a specified number of years, not to 1314  
exceed fifteen, of a specified portion, not to exceed one 1315  
hundred per cent, of the increase in the assessed valuation of 1316  
the real property of the facility during or after remediation; 1317

(c) The incentive under division (C) (1) (a) of this 1318  
section, except that the percentage of the assessed value of 1319  
such property exempted from taxation shall not exceed one 1320  
hundred per cent; 1321

(d) The incentive under division (C) (1) (c) of this 1322

section. 1323

(3) Enter into an agreement with an enterprise that plans 1324  
to purchase and operate a large manufacturing facility that has 1325  
ceased operation or announced its intention to cease operation, 1326  
in return for exemption for a specified number of years, not to 1327  
exceed fifteen, of a specified portion, up to one hundred per 1328  
cent, of the assessed value of tangible personal property used 1329  
in business at the project site as a result of the agreement, or 1330  
of the assessed valuation of real property constituting the 1331  
project site, or both. 1332

(4) Enter into an agreement with an enterprise that either 1333  
is the owner of real property constituting the site of a 1334  
megaproject or is a megaproject supplier in return for an 1335  
exemption for a specified number of years, not to exceed thirty, 1336  
of a specified portion, up to one hundred per cent, of the 1337  
increase in the assessed value of real property constituting the 1338  
site of a megaproject or real property owned and occupied by the 1339  
megaproject supplier, respectively, beginning after the tax year 1340  
in which the agreement is formally approved by the legislative 1341  
authority. 1342

(D) (1) Notwithstanding divisions (C) (1) (a) and (b) of this 1343  
section, the portion of the assessed value of tangible personal 1344  
property or of the increase in the assessed valuation of real 1345  
property exempted from taxation under those divisions may exceed 1346  
seventy-five per cent in any year for which that portion is 1347  
exempted if the average percentage exempted for all years in 1348  
which the agreement is in effect does not exceed sixty per cent, 1349  
or if the board of education of the city, local, or exempted 1350  
village school district within the territory of which the 1351  
property is or will be located approves a percentage in excess 1352

of seventy-five per cent. 1353

(2) Notwithstanding any provision of the Revised Code to 1354  
the contrary, the exemptions described in divisions (C) (1) (a), 1355  
(b), and (c), (C) (2) (a), (b), and (c), and (C) (3) of this 1356  
section may be for up to fifteen years and the exemption 1357  
described in division (C) (4) of this section may be for up to 1358  
thirty years if the board of education of the city, local, or 1359  
exempted village school district within the territory of which 1360  
the property is or will be located approves a number of years in 1361  
excess of ten. 1362

(3) For the purpose of obtaining the approval of a city, 1363  
local, or exempted village school district under division (D) (1) 1364  
or (2) of this section, the legislative authority shall deliver 1365  
to the board of education a notice not later than forty-five 1366  
days prior to approving the agreement, excluding Saturdays, 1367  
Sundays, and legal holidays as defined in section 1.14 of the 1368  
Revised Code. The notice shall state the percentage to be 1369  
exempted, an estimate of the true value of the property to be 1370  
exempted, and the number of years the property is to be 1371  
exempted. The board of education, by resolution adopted by a 1372  
majority of the board, shall approve or disapprove the agreement 1373  
and certify a copy of the resolution to the legislative 1374  
authority not later than fourteen days prior to the date 1375  
stipulated by the legislative authority as the date upon which 1376  
approval of the agreement is to be formally considered by the 1377  
legislative authority. The board of education may include in the 1378  
resolution conditions under which the board would approve the 1379  
agreement, including the execution of an agreement to compensate 1380  
the school district under division (B) of section 5709.82 of the 1381  
Revised Code. The legislative authority may approve the 1382  
agreement at any time after the board of education certifies its 1383

resolution approving the agreement to the legislative authority, 1384  
or, if the board approves the agreement conditionally, at any 1385  
time after the conditions are agreed to by the board and the 1386  
legislative authority. 1387

If a board of education has adopted a resolution waiving 1388  
its right to approve agreements and the resolution remains in 1389  
effect, approval of an agreement by the board is not required 1390  
under this division. If a board of education has adopted a 1391  
resolution allowing a legislative authority to deliver the 1392  
notice required under this division fewer than forty-five 1393  
business days prior to the legislative authority's approval of 1394  
the agreement, the legislative authority shall deliver the 1395  
notice to the board not later than the number of days prior to 1396  
such approval as prescribed by the board in its resolution. If a 1397  
board of education adopts a resolution waiving its right to 1398  
approve agreements or shortening the notification period, the 1399  
board shall certify a copy of the resolution to the legislative 1400  
authority. If the board of education rescinds such a resolution, 1401  
it shall certify notice of the rescission to the legislative 1402  
authority. 1403

(4) The legislative authority shall comply with section 1404  
5709.83 of the Revised Code unless the board of education has 1405  
adopted a resolution under that section waiving its right to 1406  
receive such notice. 1407

(E) This division applies to zones certified by the 1408  
director of development services under this section prior to 1409  
July 22, 1994. 1410

The legislative authority that designated a zone to which 1411  
this division applies may enter into an agreement with an 1412  
enterprise if the legislative authority finds that the 1413

enterprise satisfies one of the criteria described in divisions 1414  
(E) (1) to (5) of this section: 1415

(1) The enterprise currently has no operations in this 1416  
state and, subject to approval of the agreement, intends to 1417  
establish operations in the zone; 1418

(2) The enterprise currently has operations in this state 1419  
and, subject to approval of the agreement, intends to establish 1420  
operations at a new location in the zone that would not result 1421  
in a reduction in the number of employee positions at any of the 1422  
enterprise's other locations in this state; 1423

(3) The enterprise, subject to approval of the agreement, 1424  
intends to relocate operations, currently located in another 1425  
state, to the zone; 1426

(4) The enterprise, subject to approval of the agreement, 1427  
intends to expand operations at an existing site in the zone 1428  
that the enterprise currently operates; 1429

(5) The enterprise, subject to approval of the agreement, 1430  
intends to relocate operations, currently located in this state, 1431  
to the zone, and the director of development services has issued 1432  
a waiver for the enterprise under division (B) of section 1433  
5709.633 of the Revised Code. 1434

The agreement shall require the enterprise to agree to 1435  
establish, expand, renovate, or occupy a facility in the zone 1436  
and hire new employees, or preserve employment opportunities for 1437  
existing employees, in return for one or more of the incentives 1438  
described in division (C) of this section. 1439

(F) All agreements entered into under this section shall 1440  
be in the form prescribed under section 5709.631 of the Revised 1441  
Code. After an agreement is entered into under this section, if 1442

the legislative authority revokes its designation of a zone, or 1443  
if the director of development services revokes a zone's 1444  
certification, any entitlements granted under the agreement 1445  
shall continue for the number of years specified in the 1446  
agreement. 1447

(G) Except as otherwise provided in this division, an 1448  
agreement entered into under this section shall require that the 1449  
enterprise pay an annual fee equal to the greater of one per 1450  
cent of the dollar value of incentives offered under the 1451  
agreement or five hundred dollars; provided, however, that if 1452  
the value of the incentives exceeds two hundred fifty thousand 1453  
dollars, the fee shall not exceed two thousand five hundred 1454  
dollars. The fee shall be payable to the legislative authority 1455  
once per year for each year the agreement is effective on the 1456  
days and in the form specified in the agreement. Fees paid shall 1457  
be deposited in a special fund created for such purpose by the 1458  
legislative authority and shall be used by the legislative 1459  
authority exclusively for the purpose of complying with section 1460  
5709.68 of the Revised Code and by the tax incentive review 1461  
council created under section 5709.85 of the Revised Code 1462  
exclusively for the purposes of performing the duties prescribed 1463  
under that section. The legislative authority may waive or 1464  
reduce the amount of the fee charged against an enterprise, but 1465  
such a waiver or reduction does not affect the obligations of 1466  
the legislative authority or the tax incentive review council to 1467  
comply with section 5709.68 or 5709.85 of the Revised Code. 1468

(H) When an agreement is entered into pursuant to this 1469  
section, the legislative authority authorizing the agreement 1470  
shall forward a copy of the agreement to the director of 1471  
development services and to the tax commissioner within fifteen 1472  
days after the agreement is entered into. If any agreement 1473

includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into

under this section is limited to divisions (C) (1) (a) and (b), 1504  
(C) (2) (a), (b), and (c), (C) (3) and (4), (D), and (I) of this 1505  
section and divisions (B) (1) to (10) of section 5709.631 of the 1506  
Revised Code and, as authorized by law, to enforcing any 1507  
modification to, or revocation of, that agreement by the 1508  
legislative authority of a municipal corporation or the director 1509  
of development services. 1510

**Sec. 5709.63.** (A) With the consent of the legislative 1511  
authority of each affected municipal corporation or of a board 1512  
of township trustees, a board of county commissioners may, in 1513  
the manner set forth in section 5709.62 of the Revised Code, 1514  
designate one or more areas in one or more municipal 1515  
corporations or in unincorporated areas of the county as 1516  
proposed enterprise zones. A board of county commissioners may 1517  
designate no more than one area within a township, or within 1518  
adjacent townships, as a proposed enterprise zone. The board 1519  
shall petition the director of development services for 1520  
certification of the area as having the characteristics set 1521  
forth in division (A) (1) or (2) of section 5709.61 of the 1522  
Revised Code as amended by Substitute Senate Bill No. 19 of the 1523  
120th general assembly. Except as otherwise provided in division 1524  
(D) of this section, on and after July 1, 1994, boards of county 1525  
commissioners shall not enter into agreements under this section 1526  
unless the board has petitioned the director and the director 1527  
has certified the zone under this section as amended by that 1528  
act; however, all agreements entered into under this section as 1529  
it existed prior to July 1, 1994, and the incentives granted 1530  
under those agreements shall remain in effect for the period 1531  
agreed to under those agreements. The director shall make the 1532  
determination in the manner provided under section 5709.62 of 1533  
the Revised Code. 1534

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, may do ~~either~~ one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that

section; 1565

(b) When the facility is located in an unincorporated 1566  
area, the board may enter into an agreement for one or more of 1567  
the following incentives: 1568

(i) Exemption for a specified number of years, not to 1569  
exceed fifteen, of a specified portion, up to sixty per cent, of 1570  
the assessed value of tangible personal property first used in 1571  
business at a project site as a result of the agreement. If an 1572  
exemption for inventory is specifically granted in the agreement 1573  
pursuant to this division, the exemption applies to inventory 1574  
required to be listed pursuant to sections 5711.15 and 5711.16 1575  
of the Revised Code, except, in the instance of an expansion or 1576  
other situations in which an enterprise was in business at the 1577  
facility prior to the establishment of the zone, the inventory 1578  
that is exempt is that amount or value of inventory in excess of 1579  
the amount or value of inventory required to be listed in the 1580  
personal property tax return of the enterprise in the return for 1581  
the tax year in which the agreement is entered into. 1582

(ii) Exemption for a specified number of years, not to 1583  
exceed fifteen, of a specified portion, up to sixty per cent, of 1584  
the increase in the assessed valuation of real property 1585  
constituting the project site subsequent to formal approval of 1586  
the agreement by the board; 1587

(iii) Provision for a specified number of years, not to 1588  
exceed fifteen, of any optional services or assistance the board 1589  
is authorized to provide with regard to the project site; 1590

(iv) The incentive described in division (C) (2) of section 1591  
5709.62 of the Revised Code. 1592

(2) Enter into an agreement with an enterprise that plans 1593

to purchase and operate a large manufacturing facility that has 1594  
ceased operation or has announced its intention to cease 1595  
operation, in return for exemption for a specified number of 1596  
years, not to exceed fifteen, of a specified portion, up to one 1597  
hundred per cent, of tangible personal property used in business 1598  
at the project site as a result of the agreement, or of real 1599  
property constituting the project site, or both. 1600

(3) Enter into an agreement with an enterprise that either 1601  
is the owner of real property constituting the site of a 1602  
megaproject or is a megaproject supplier in return for an 1603  
exemption for a specified number of years, not to exceed thirty, 1604  
of a specified portion, up to one hundred per cent, of the 1605  
increase in the assessed value of real property constituting the 1606  
site of a megaproject or real property owned and occupied by the 1607  
megaproject supplier, respectively, beginning after the tax year 1608  
in which the agreement is formally approved by the legislative 1609  
authority. 1610

(C) (1) (a) Notwithstanding divisions (B) (1) (b) (i) and (ii) 1611  
of this section, the portion of the assessed value of tangible 1612  
personal property or of the increase in the assessed valuation 1613  
of real property exempted from taxation under those divisions 1614  
may exceed sixty per cent in any year for which that portion is 1615  
exempted if the average percentage exempted for all years in 1616  
which the agreement is in effect does not exceed fifty per cent, 1617  
or if the board of education of the city, local, or exempted 1618  
village school district within the territory of which the 1619  
property is or will be located approves a percentage in excess 1620  
of sixty per cent. 1621

(b) Notwithstanding any provision of the Revised Code to 1622  
the contrary, the exemptions described in divisions (B) (1) (b) 1623

(i), (ii), (iii), and (iv) and (B)(2) of this section may be for 1624  
up to fifteen years and the exemption described in division (B) 1625  
(3) of this section may be for up to thirty years if the board 1626  
of education of the city, local, or exempted village school 1627  
district within the territory of which the property is or will 1628  
be located approves a number of years in excess of ten. 1629

(c) For the purpose of obtaining the approval of a city, 1630  
local, or exempted village school district under division (C)(1) 1631  
(a) or (b) of this section, the board of county commissioners 1632  
shall deliver to the board of education a notice not later than 1633  
forty-five days prior to approving the agreement, excluding 1634  
Saturdays, Sundays, and legal holidays as defined in section 1635  
1.14 of the Revised Code. The notice shall state the percentage 1636  
to be exempted, an estimate of the true value of the property to 1637  
be exempted, and the number of years the property is to be 1638  
exempted. The board of education, by resolution adopted by a 1639  
majority of the board, shall approve or disapprove the agreement 1640  
and certify a copy of the resolution to the board of county 1641  
commissioners not later than fourteen days prior to the date 1642  
stipulated by the board of county commissioners as the date upon 1643  
which approval of the agreement is to be formally considered by 1644  
the board of county commissioners. The board of education may 1645  
include in the resolution conditions under which the board would 1646  
approve the agreement, including the execution of an agreement 1647  
to compensate the school district under division (B) of section 1648  
5709.82 of the Revised Code. The board of county commissioners 1649  
may approve the agreement at any time after the board of 1650  
education certifies its resolution approving the agreement to 1651  
the board of county commissioners, or, if the board of education 1652  
approves the agreement conditionally, at any time after the 1653  
conditions are agreed to by the board of education and the board 1654

of county commissioners. 1655

If a board of education has adopted a resolution waiving 1656  
its right to approve agreements and the resolution remains in 1657  
effect, approval of an agreement by the board of education is 1658  
not required under division (C) of this section. If a board of 1659  
education has adopted a resolution allowing a board of county 1660  
commissioners to deliver the notice required under this division 1661  
fewer than forty-five business days prior to approval of the 1662  
agreement by the board of county commissioners, the board of 1663  
county commissioners shall deliver the notice to the board of 1664  
education not later than the number of days prior to such 1665  
approval as prescribed by the board of education in its 1666  
resolution. If a board of education adopts a resolution waiving 1667  
its right to approve agreements or shortening the notification 1668  
period, the board of education shall certify a copy of the 1669  
resolution to the board of county commissioners. If the board of 1670  
education rescinds such a resolution, it shall certify notice of 1671  
the rescission to the board of county commissioners. 1672

(2) The board of county commissioners shall comply with 1673  
section 5709.83 of the Revised Code unless the board of 1674  
education has adopted a resolution under that section waiving 1675  
its right to receive such notice. 1676

(D) This division applies to zones certified by the 1677  
director of development services under this section prior to 1678  
July 22, 1994. 1679

With the consent of the legislative authority of each 1680  
affected municipal corporation or board of township trustees of 1681  
each affected township, the board of county commissioners that 1682  
designated a zone to which this division applies may enter into 1683  
an agreement with an enterprise if the board finds that the 1684

enterprise satisfies one of the criteria described in divisions 1685  
(D) (1) to (5) of this section: 1686

(1) The enterprise currently has no operations in this 1687  
state and, subject to approval of the agreement, intends to 1688  
establish operations in the zone; 1689

(2) The enterprise currently has operations in this state 1690  
and, subject to approval of the agreement, intends to establish 1691  
operations at a new location in the zone that would not result 1692  
in a reduction in the number of employee positions at any of the 1693  
enterprise's other locations in this state; 1694

(3) The enterprise, subject to approval of the agreement, 1695  
intends to relocate operations, currently located in another 1696  
state, to the zone; 1697

(4) The enterprise, subject to approval of the agreement, 1698  
intends to expand operations at an existing site in the zone 1699  
that the enterprise currently operates; 1700

(5) The enterprise, subject to approval of the agreement, 1701  
intends to relocate operations, currently located in this state, 1702  
to the zone, and the director of development services has issued 1703  
a waiver for the enterprise under division (B) of section 1704  
5709.633 of the Revised Code. 1705

The agreement shall require the enterprise to agree to 1706  
establish, expand, renovate, or occupy a facility in the zone 1707  
and hire new employees, or preserve employment opportunities for 1708  
existing employees, in return for one or more of the incentives 1709  
described in division (B) of this section. 1710

(E) All agreements entered into under this section shall 1711  
be in the form prescribed under section 5709.631 of the Revised 1712  
Code. After an agreement under this section is entered into, if 1713

the board of county commissioners revokes its designation of a 1714  
zone, or if the director of development services revokes a 1715  
zone's certification, any entitlements granted under the 1716  
agreement shall continue for the number of years specified in 1717  
the agreement. 1718

(F) Except as otherwise provided in this division, an 1719  
agreement entered into under this section shall require that the 1720  
enterprise pay an annual fee equal to the greater of one per 1721  
cent of the dollar value of incentives offered under the 1722  
agreement or five hundred dollars; provided, however, that if 1723  
the value of the incentives exceeds two hundred fifty thousand 1724  
dollars, the fee shall not exceed two thousand five hundred 1725  
dollars. The fee shall be payable to the board of county 1726  
commissioners once per year for each year the agreement is 1727  
effective on the days and in the form specified in the 1728  
agreement. Fees paid shall be deposited in a special fund 1729  
created for such purpose by the board and shall be used by the 1730  
board exclusively for the purpose of complying with section 1731  
5709.68 of the Revised Code and by the tax incentive review 1732  
council created under section 5709.85 of the Revised Code 1733  
exclusively for the purposes of performing the duties prescribed 1734  
under that section. The board may waive or reduce the amount of 1735  
the fee charged against an enterprise, but such waiver or 1736  
reduction does not affect the obligations of the board or the 1737  
tax incentive review council to comply with section 5709.68 or 1738  
5709.85 of the Revised Code, respectively. 1739

(G) With the approval of the legislative authority of a 1740  
municipal corporation or the board of township trustees of a 1741  
township in which a zone is designated under division (A) of 1742  
this section, the board of county commissioners may delegate to 1743  
that legislative authority or board any powers and duties of the 1744

board of county commissioners to negotiate and administer 1745  
agreements with regard to that zone under this section. 1746

(H) When an agreement is entered into pursuant to this 1747  
section, the board of county commissioners authorizing the 1748  
agreement or the legislative authority or board of township 1749  
trustees that negotiates and administers the agreement shall 1750  
forward a copy of the agreement to the director of development 1751  
services and to the tax commissioner within fifteen days after 1752  
the agreement is entered into. If any agreement includes terms 1753  
not provided for in section 5709.631 of the Revised Code 1754  
affecting the revenue of a city, local, or exempted village 1755  
school district or causing revenue to be foregone by the 1756  
district, including any compensation to be paid to the school 1757  
district pursuant to section 5709.82 of the Revised Code, those 1758  
terms also shall be forwarded in writing to the director of 1759  
development services along with the copy of the agreement 1760  
forwarded under this division. 1761

(I) After an agreement is entered into, the enterprise 1762  
shall file with each personal property tax return required to be 1763  
filed, or annual report that is required to be filed under 1764  
section 5727.08 of the Revised Code, while the agreement is in 1765  
effect, an informational return, on a form prescribed by the tax 1766  
commissioner for that purpose, setting forth separately the 1767  
property, and related costs and values, exempted from taxation 1768  
under the agreement. 1769

(J) Enterprises may agree to give preference to residents 1770  
of the zone within which the agreement applies relative to 1771  
residents of this state who do not reside in the zone when 1772  
hiring new employees under the agreement. 1773

(K) An agreement entered into under this section may 1774

include a provision requiring the enterprise to create one or 1775  
more temporary internship positions for students enrolled in a 1776  
course of study at a school or other educational institution in 1777  
the vicinity, and to create a scholarship or provide another 1778  
form of educational financial assistance for students holding 1779  
such a position in exchange for the student's commitment to work 1780  
for the enterprise at the completion of the internship. 1781

(L) The tax commissioner's authority in determining the 1782  
accuracy of any exemption granted by an agreement entered into 1783  
under this section is limited to divisions (B) (1) (b) (i) and 1784  
(ii), (B) (2) and (3), (C), and (I) of this section, division (B) 1785  
(1) (b) (iv) of this section as it pertains to divisions (C) (2) 1786  
(a), (b), and (c) of section 5709.62 of the Revised Code, and 1787  
divisions (B) (1) to (10) of section 5709.631 of the Revised Code 1788  
and, as authorized by law, to enforcing any modification to, or 1789  
revocation of, that agreement by the board of county 1790  
commissioners or the director of development services or, if the 1791  
board's powers and duties are delegated under division (G) of 1792  
this section, by the legislative authority of a municipal 1793  
corporation or board of township trustees. 1794

**Sec. 5709.631.** Each agreement entered into under sections 1795  
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 1796  
April 1, 1994, shall be in writing and shall include all of the 1797  
information and statements prescribed by this section. 1798  
Agreements may include terms not prescribed by this section, but 1799  
such terms shall in no way derogate from the information and 1800  
statements prescribed by this section. 1801

(A) Each agreement shall include the following 1802  
information: 1803

(1) The names of all parties to the agreement; 1804

(2) A description of the investments to be made by the applicant enterprise or by another party at the facility whether or not the investments are exempted from taxation, including existing or new building size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement that will not be exempted from taxation; the value of inventory at the facility, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility, and the value of inventory held at the facility prior to the execution of the agreement that will not be exempted from taxation;

(3) The scheduled starting and completion dates of investments made in building, machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the applicant enterprise due to the project, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (A) (4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the project site and at any other location in the state at the time

the agreement is executed, itemized as to the number of full- 1835  
time, part-time, permanent, and temporary positions. 1836

(B) Each agreement shall set forth the following 1837  
information and incorporate the following statements: 1838

(1) A description of real property to be exempted from 1839  
taxation under the agreement, the percentage of the assessed 1840  
valuation of the real property exempted from taxation, and the 1841  
period for which the exemption is granted, accompanied by the 1842  
statement: "The exemption commences the first year for which the 1843  
real property would first be taxable were that property not 1844  
exempted from taxation. No exemption shall commence 1845  
after ..... (insert date) nor extend beyond ..... 1846  
(insert date)." The tax commissioner shall adopt rules 1847  
prescribing the form the description of such property shall 1848  
assume to ensure that the property to be exempted from taxation 1849  
under the agreement is distinguishable from property that is not 1850  
to be exempted under that agreement. 1851

(2) A description of tangible personal property to be 1852  
exempted from taxation under the agreement, the percentage of 1853  
the assessed value of the tangible personal property exempted 1854  
from taxation, and the period for which the exemption is 1855  
granted, accompanied by the statement: "The minimum investment 1856  
for tangible personal property to qualify for the exemption is 1857  
\$..... (insert dollar amount) to purchase machinery and 1858  
equipment first used in business at the facility as a result of 1859  
the project, \$..... (insert dollar amount) for furniture 1860  
and fixtures and other noninventory personal property first used 1861  
in business at the facility as a result of the project, and 1862  
\$..... (insert dollar amount) for new inventory. The 1863  
maximum investment for tangible personal property to qualify for 1864

the exemption is \$..... (insert dollar amount) to purchase 1865  
machinery and equipment first used in business at the facility 1866  
as a result of the project, \$..... (insert dollar amount) 1867  
for furniture and fixtures and other noninventory personal 1868  
property first used in business at the facility as a result of 1869  
the project, and \$..... (insert dollar amount) for new 1870  
inventory. The exemption commences the first year for which the 1871  
tangible personal property would first be taxable were that 1872  
property not exempted from taxation. No exemption shall commence 1873  
after tax return year ..... (insert year) nor extend beyond 1874  
tax return year ..... (insert year). In no instance shall 1875  
any tangible personal property be exempted from taxation for 1876  
more than ten return years unless, under division (D) (2) of 1877  
section 5709.62 or under division (C) (1) (b) of section 5709.63 1878  
of the Revised Code, the board of education approves exemption 1879  
for a number of years in excess of ten, in which case the 1880  
tangible personal property may be exempted from taxation for 1881  
that number of years, not to exceed fifteen return years." No 1882  
exemption shall be allowed for any type of tangible personal 1883  
property if the total investment is less than the minimum dollar 1884  
amount specified for that type of property. If, for a type of 1885  
tangible personal property, there are no minimum or maximum 1886  
investment dollar amounts specified in the statement or the 1887  
dollar amounts are designated in the statement as not 1888  
applicable, the exemption shall apply to the total cost of that 1889  
type of tangible personal property first used in business at the 1890  
facility as a result of the project. The tax commissioner shall 1891  
adopt rules prescribing the form the description of such 1892  
property shall assume to ensure that the property to be exempted 1893  
from taxation under the agreement is distinguishable from 1894  
property that is not to be exempted under that agreement. 1895

(3) "..... (insert name of enterprise) shall pay such 1896  
real and tangible personal property taxes as are not exempted 1897  
under this agreement and are charged against such property and 1898  
shall file all tax reports and returns as required by law. 1899  
If ..... (insert name of enterprise) fails to pay such 1900  
taxes or file such returns and reports, all incentives granted 1901  
under this agreement are rescinded beginning with the year for 1902  
which such taxes are charged or such reports or returns are 1903  
required to be filed and thereafter." 1904

(4) "..... (insert name of enterprise) hereby 1905  
certifies that at the time this agreement is 1906  
executed, ..... (insert name of enterprise) does not owe 1907  
any delinquent real or tangible personal property taxes to any 1908  
taxing authority of the State of Ohio, and does not owe 1909  
delinquent taxes for which ..... (insert name of 1910  
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 1911  
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 1912  
delinquent taxes are owed, ..... (insert name of 1913  
enterprise) currently is paying the delinquent taxes pursuant to 1914  
a delinquent tax contract enforceable by the State of Ohio or an 1915  
agent or instrumentality thereof, has filed a petition in 1916  
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 1917  
has been filed against ..... (insert name of enterprise). 1918  
For the purposes of the certification, delinquent taxes are 1919  
taxes that remain unpaid on the latest day prescribed for 1920  
payment without penalty under the chapter of the Revised Code 1921  
governing payment of those taxes." 1922

(5) "..... (insert name of municipal corporation or 1923  
county) shall perform such acts as are reasonably necessary or 1924  
appropriate to effect, claim, reserve, and maintain exemptions 1925  
from taxation granted under this agreement including, without 1926

limitation, joining in the execution of all documentation and 1927  
providing any necessary certificates required in connection with 1928  
such exemptions." 1929

(6) "If for any reason the enterprise zone designation 1930  
expires, the Director of the Ohio Department of Development 1931  
revokes certification of the zone, or ..... (insert name of 1932  
municipal corporation or county) revokes the designation of the 1933  
zone, entitlements granted under this agreement shall continue 1934  
for the number of years specified under this agreement, 1935  
unless ..... (insert name of enterprise) materially fails 1936  
to fulfill its obligations under this agreement and ..... 1937  
(insert name of municipal corporation or county) terminates or 1938  
modifies the exemptions from taxation granted under this 1939  
agreement." 1940

(7) "If ..... (insert name of enterprise) materially 1941  
fails to fulfill its obligations under this agreement, other 1942  
than with respect to the number of employee positions estimated 1943  
to be created or retained under this agreement, or if ..... 1944  
(insert name of municipal corporation or county) determines that 1945  
the certification as to delinquent taxes required by this 1946  
agreement is fraudulent, ..... (insert name of municipal 1947  
corporation or county) may terminate or modify the exemptions 1948  
from taxation granted under this agreement." 1949

(8) "..... (insert name of enterprise) shall provide 1950  
to the proper tax incentive review council any information 1951  
reasonably required by the council to evaluate the enterprise's 1952  
compliance with the agreement, including returns or annual 1953  
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 1954  
Revised Code if requested by the council." 1955

(9) "..... (insert name of enterprise) and ..... 1956

(insert name of municipal corporation or county) acknowledge 1957  
that this agreement must be approved by formal action of the 1958  
legislative authority of ..... (insert name of municipal 1959  
corporation or county) as a condition for the agreement to take 1960  
effect. This agreement takes effect upon such approval." 1961

(10) "This agreement is not transferable or assignable 1962  
without the express, written approval of ..... (insert name 1963  
of municipal corporation or county)." 1964

(11) "Exemptions from taxation granted under this 1965  
agreement shall be revoked if it is determined 1966  
that ..... (insert name of enterprise), any successor 1967  
enterprise, or any related member (as those terms are defined in 1968  
section 5709.61 of the Ohio Revised Code) has violated the 1969  
prohibition against entering into this agreement under division 1970  
(E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 1971  
of the Ohio Revised Code prior to the time prescribed by that 1972  
division or either of those sections." 1973

(12) "In any three-year period during which this agreement 1974  
is in effect, if the actual number of employee positions created 1975  
or retained by . . . . . (insert name of enterprise) is 1976  
not equal to or greater than seventy-five per cent of the number 1977  
of employee positions estimated to be created or retained under 1978  
this agreement during that three-year period, . . . . . 1979  
(insert name of enterprise) shall repay the amount of taxes on 1980  
property that would have been payable had the property not been 1981  
exempted from taxation under this agreement during that three- 1982  
year period. In addition, the . . . . . (insert name of 1983  
municipal corporation or county) may terminate or modify the 1984  
exemptions from taxation granted under this agreement." 1985

(13) If the enterprise is the owner of real property 1986

|   |      |
|---|------|
| <u>constituting the site of a megaproject or is a megaproject</u>       | 1987 |
| <u>supplier, both of the following:</u>                                 | 1988 |
| <u>(a) A requirement that the enterprise annually certify to</u>        | 1989 |
| <u>the legislative authority whether the megaproject operator or</u>    | 1990 |
| <u>megaproject supplier, as applicable, holds a certificate issued</u>  | 1991 |
| <u>under division (D) (7) of section 122.17 of the Revised Code on</u>  | 1992 |
| <u>the first day of the current tax year;</u>                           | 1993 |
| <u>(b) A provision authorizing the legislative authority to</u>         | 1994 |
| <u>terminate the exemption for current and subsequent tax years if</u>  | 1995 |
| <u>the megaproject operator or megaproject supplier, as applicable,</u> | 1996 |
| <u>does not hold a certificate issued under division (D) (7) of</u>     | 1997 |
| <u>section 122.17 of the Revised Code on the first day of the</u>       | 1998 |
| <u>current tax year.</u>  | 1999 |
| The statement described in division (B) (7) of this section             | 2000 |
| may include the following statement, appended at the end of the         | 2001 |
| statement: "and may require the repayment of the amount of taxes        | 2002 |
| that would have been payable had the property not been exempted         | 2003 |
| from taxation under this agreement." If the agreement includes a        | 2004 |
| statement requiring repayment of exempted taxes, it also may            | 2005 |
| authorize the legislative authority to secure repayment of such         | 2006 |
| taxes by a lien on the exempted property in the amount required         | 2007 |
| to be repaid. Such a lien on exempted real property shall               | 2008 |
| attach, and may be perfected, collected, and enforced, in the           | 2009 |
| same manner as a mortgage lien on real property, and shall              | 2010 |
| otherwise have the same force and effect as a mortgage lien on          | 2011 |
| real property. Notwithstanding section 5719.01 of the Revised           | 2012 |
| Code, such a lien on exempted tangible personal property shall          | 2013 |
| attach, and may be perfected, collected, and enforced, in the           | 2014 |
| same manner as a security interest in goods under Chapter 1309.         | 2015 |
| of the Revised Code, and shall otherwise have the same force and        | 2016 |

effect as such a security interest. 2017

(C) If the director of development had to issue a waiver 2018  
under section 5709.633 of the Revised Code as a condition for 2019  
the agreement to be executed, the agreement shall include the 2020  
following statement: 2021

"Continuation of this agreement is subject to the validity 2022  
of the circumstance upon which ..... (insert name of 2023  
enterprise) applied for, and the Director of the Ohio Department 2024  
of Development issued, the waiver pursuant to section 5709.633 2025  
of the Ohio Revised Code. If, after formal approval of this 2026  
agreement by ..... (insert name of municipal corporation or 2027  
county), the Director or ..... (insert name of municipal 2028  
corporation or county) discovers that such a circumstance did 2029  
not exist, ..... (insert name of enterprise) shall be 2030  
deemed to have materially failed to comply with this agreement." 2031

If the director issued a waiver on the basis of the 2032  
circumstance described in division (B) (3) of section 5709.633 of 2033  
the Ohio Revised Code, the conditions enumerated in divisions 2034  
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 2035  
section shall be incorporated in the information described in 2036  
divisions (A) (2), (3), and (4) of this section. 2037

**Sec. 5709.632.** (A) (1) The legislative authority of a 2038  
municipal corporation defined by the United States office of 2039  
management and budget as a principal city of a metropolitan 2040  
statistical area may, in the manner set forth in section 5709.62 2041  
of the Revised Code, designate one or more areas in the 2042  
municipal corporation as a proposed enterprise zone. 2043

(2) With the consent of the legislative authority of each 2044  
affected municipal corporation or of a board of township 2045

trustees, a board of county commissioners may, in the manner set 2046  
forth in section 5709.62 of the Revised Code, designate one or 2047  
more areas in one or more municipal corporations or in 2048  
unincorporated areas of the county as proposed urban jobs and 2049  
enterprise zones, except that a board of county commissioners 2050  
may designate no more than one area within a township, or within 2051  
adjacent townships, as a proposed urban jobs and enterprise 2052  
zone. 2053

(3) The legislative authority or board of county 2054  
commissioners may petition the director of development services 2055  
for certification of the area as having the characteristics set 2056  
forth in division (A)(3) of section 5709.61 of the Revised Code. 2057  
Within sixty days after receiving such a petition, the director 2058  
shall determine whether the area has the characteristics set 2059  
forth in that division and forward the findings to the 2060  
legislative authority or board of county commissioners. If the 2061  
director certifies the area as having those characteristics and 2062  
thereby certifies it as a zone, the legislative authority or 2063  
board may enter into agreements with enterprises under division 2064  
(B) of this section. Any enterprise wishing to enter into an 2065  
agreement with a legislative authority or board of county 2066  
commissioners under this section and satisfying one of the 2067  
criteria described in divisions (B)(1) to (5) of this section 2068  
shall submit a proposal to the legislative authority or board on 2069  
the form prescribed under division (B) of section 5709.62 of the 2070  
Revised Code and shall review and update the estimates and 2071  
listings required by the form in the manner required under that 2072  
division. The legislative authority or board may, on a separate 2073  
form and at any time, require any additional information 2074  
necessary to determine whether an enterprise is in compliance 2075  
with an agreement and to collect the information required to be 2076

reported under section 5709.68 of the Revised Code. 2077

(B) Prior to entering into an agreement with an 2078  
enterprise, the legislative authority or board of county 2079  
commissioners shall determine whether the enterprise submitting 2080  
the proposal is qualified by financial responsibility and 2081  
business experience to create and preserve employment 2082  
opportunities in the zone and to improve the economic climate of 2083  
the municipal corporation or municipal corporations or the 2084  
unincorporated areas in which the zone is located and to which 2085  
the proposal applies, and whether the enterprise satisfies one 2086  
of the following criteria: 2087

(1) The enterprise currently has no operations in this 2088  
state and, subject to approval of the agreement, intends to 2089  
establish operations in the zone; 2090

(2) The enterprise currently has operations in this state 2091  
and, subject to approval of the agreement, intends to establish 2092  
operations at a new location in the zone that would not result 2093  
in a reduction in the number of employee positions at any of the 2094  
enterprise's other locations in this state; 2095

(3) The enterprise, subject to approval of the agreement, 2096  
intends to relocate operations, currently located in another 2097  
state, to the zone; 2098

(4) The enterprise, subject to approval of the agreement, 2099  
intends to expand operations at an existing site in the zone 2100  
that the enterprise currently operates; 2101

(5) The enterprise, subject to approval of the agreement, 2102  
intends to relocate operations, currently located in this state, 2103  
to the zone, and the director of development services has issued 2104  
a waiver for the enterprise under division (B) of section 2105

5709.633 of the Revised Code. 2106

(C) If the legislative authority or board determines that 2107  
the enterprise is so qualified and satisfies one of the criteria 2108  
described in divisions (B)(1) to (5) of this section, the 2109  
legislative authority or board may, after complying with section 2110  
5709.83 of the Revised Code and, in the case of a board of 2111  
commissioners, with the consent of the legislative authority of 2112  
each affected municipal corporation or of the board of township 2113  
trustees, enter into an agreement with the enterprise under 2114  
which the enterprise agrees to establish, expand, renovate, or 2115  
occupy a facility in the zone and hire new employees, or 2116  
preserve employment opportunities for existing employees, in 2117  
return for the following incentives: 2118

(1) When the facility is located in a municipal 2119  
corporation, a legislative authority or board of commissioners 2120  
may enter into an agreement for one or more of the incentives 2121  
provided in ~~division~~ divisions (C)(1), (2), and (3) of section 2122  
5709.62 of the Revised Code, subject to division (D) of that 2123  
section, or for the incentive provided in division (C)(4) of 2124  
that section if the enterprise is the owner of real property 2125  
constituting the site of a megaproject or is a megaproject 2126  
supplier; 2127

(2) When the facility is located in an unincorporated 2128  
area, a board of commissioners may enter into an agreement for 2129  
one or more of the incentives provided in divisions (B)(1)(b) ~~7~~ 2130  
and (B)(2), and (B)(3) of section 5709.63 of the Revised Code, 2131  
subject to division (C) of that section, or for the incentive 2132  
provided in division (B)(3) of that section if the enterprise is 2133  
the owner of real property constituting the site of a 2134  
megaproject or is a megaproject supplier. 2135

(D) All agreements entered into under this section shall 2136  
be in the form prescribed under section 5709.631 of the Revised 2137  
Code. After an agreement under this section is entered into, if 2138  
the legislative authority or board of county commissioners 2139  
revokes its designation of the zone, or if the director of 2140  
development services revokes the zone's certification, any 2141  
entitlements granted under the agreement shall continue for the 2142  
number of years specified in the agreement. 2143

(E) Except as otherwise provided in this division, an 2144  
agreement entered into under this section shall require that the 2145  
enterprise pay an annual fee equal to the greater of one per 2146  
cent of the dollar value of incentives offered under the 2147  
agreement or five hundred dollars; provided, however, that if 2148  
the value of the incentives exceeds two hundred fifty thousand 2149  
dollars, the fee shall not exceed two thousand five hundred 2150  
dollars. The fee shall be payable to the legislative authority 2151  
or board of commissioners once per year for each year the 2152  
agreement is effective on the days and in the form specified in 2153  
the agreement. Fees paid shall be deposited in a special fund 2154  
created for such purpose by the legislative authority or board 2155  
and shall be used by the legislative authority or board 2156  
exclusively for the purpose of complying with section 5709.68 of 2157  
the Revised Code and by the tax incentive review council created 2158  
under section 5709.85 of the Revised Code exclusively for the 2159  
purposes of performing the duties prescribed under that section. 2160  
The legislative authority or board may waive or reduce the 2161  
amount of the fee charged against an enterprise, but such waiver 2162  
or reduction does not affect the obligations of the legislative 2163  
authority or board or the tax incentive review council to comply 2164  
with section 5709.68 or 5709.85 of the Revised Code, 2165  
respectively. 2166

(F) With the approval of the legislative authority of a 2167  
municipal corporation or the board of township trustees of a 2168  
township in which a zone is designated under division (A) (2) of 2169  
this section, the board of county commissioners may delegate to 2170  
that legislative authority or board any powers and duties of the 2171  
board to negotiate and administer agreements with regard to that 2172  
zone under this section. 2173

(G) When an agreement is entered into pursuant to this 2174  
section, the legislative authority or board of commissioners 2175  
authorizing the agreement shall forward a copy of the agreement 2176  
to the director of development services and to the tax 2177  
commissioner within fifteen days after the agreement is entered 2178  
into. If any agreement includes terms not provided for in 2179  
section 5709.631 of the Revised Code affecting the revenue of a 2180  
city, local, or exempted village school district or causing 2181  
revenue to be forgone by the district, including any 2182  
compensation to be paid to the school district pursuant to 2183  
section 5709.82 of the Revised Code, those terms also shall be 2184  
forwarded in writing to the director of development services 2185  
along with the copy of the agreement forwarded under this 2186  
division. 2187

(H) After an agreement is entered into, the enterprise 2188  
shall file with each personal property tax return required to be 2189  
filed while the agreement is in effect, an informational return, 2190  
on a form prescribed by the tax commissioner for that purpose, 2191  
setting forth separately the property, and related costs and 2192  
values, exempted from taxation under the agreement. 2193

(I) An agreement entered into under this section may 2194  
include a provision requiring the enterprise to create one or 2195  
more temporary internship positions for students enrolled in a 2196

course of study at a school or other educational institution in 2197  
the vicinity, and to create a scholarship or provide another 2198  
form of educational financial assistance for students holding 2199  
such a position in exchange for the student's commitment to work 2200  
for the enterprise at the completion of the internship. 2201

**Sec. 5751.01.** As used in this chapter: 2202

(A) "Person" means, but is not limited to, individuals, 2203  
combinations of individuals of any form, receivers, assignees, 2204  
trustees in bankruptcy, firms, companies, joint-stock companies, 2205  
business trusts, estates, partnerships, limited liability 2206  
partnerships, limited liability companies, associations, joint 2207  
ventures, clubs, societies, for-profit corporations, S 2208  
corporations, qualified subchapter S subsidiaries, qualified 2209  
subchapter S trusts, trusts, entities that are disregarded for 2210  
federal income tax purposes, and any other entities. 2211

(B) "Consolidated elected taxpayer" means a group of two 2212  
or more persons treated as a single taxpayer for purposes of 2213  
this chapter as the result of an election made under section 2214  
5751.011 of the Revised Code. 2215

(C) "Combined taxpayer" means a group of two or more 2216  
persons treated as a single taxpayer for purposes of this 2217  
chapter under section 5751.012 of the Revised Code. 2218

(D) "Taxpayer" means any person, or any group of persons 2219  
in the case of a consolidated elected taxpayer or combined 2220  
taxpayer treated as one taxpayer, required to register or pay 2221  
tax under this chapter. "Taxpayer" does not include excluded 2222  
persons. 2223

(E) "Excluded person" means any of the following: 2224

(1) Any person with not more than one hundred fifty 2225

thousand dollars of taxable gross receipts during the calendar 2226  
year. Division (E) (1) of this section does not apply to a person 2227  
that is a member of a consolidated elected taxpayer; 2228

(2) A public utility that paid the excise tax imposed by 2229  
section 5727.24 or 5727.30 of the Revised Code based on one or 2230  
more measurement periods that include the entire tax period 2231  
under this chapter, except that a public utility that is a 2232  
combined company is a taxpayer with regard to the following 2233  
gross receipts: 2234

(a) Taxable gross receipts directly attributed to a public 2235  
utility activity, but not directly attributed to an activity 2236  
that is subject to the excise tax imposed by section 5727.24 or 2237  
5727.30 of the Revised Code; 2238

(b) Taxable gross receipts that cannot be directly 2239  
attributed to any activity, multiplied by a fraction whose 2240  
numerator is the taxable gross receipts described in division 2241  
(E) (2) (a) of this section and whose denominator is the total 2242  
taxable gross receipts that can be directly attributed to any 2243  
activity; 2244

(c) Except for any differences resulting from the use of 2245  
an accrual basis method of accounting for purposes of 2246  
determining gross receipts under this chapter and the use of the 2247  
cash basis method of accounting for purposes of determining 2248  
gross receipts under section 5727.24 of the Revised Code, the 2249  
gross receipts directly attributed to the activity of a natural 2250  
gas company shall be determined in a manner consistent with 2251  
division (D) of section 5727.03 of the Revised Code. 2252

As used in division (E) (2) of this section, "combined 2253  
company" and "public utility" have the same meanings as in 2254

|  |      |
|--|------|
| section 5727.01 of the Revised Code.                             | 2255 |
| (3) A financial institution, as defined in section 5726.01       | 2256 |
| of the Revised Code, that paid the tax imposed by section        | 2257 |
| 5726.02 of the Revised Code based on one or more taxable years   | 2258 |
| that include the entire tax period under this chapter;           | 2259 |
| (4) A person directly or indirectly owned by one or more         | 2260 |
| financial institutions, as defined in section 5726.01 of the     | 2261 |
| Revised Code, that paid the tax imposed by section 5726.02 of    | 2262 |
| the Revised Code based on one or more taxable years that include | 2263 |
| the entire tax period under this chapter.                        | 2264 |
| For the purposes of division (E) (4) of this section, a          | 2265 |
| person owns another person under the following circumstances:    | 2266 |
| (a) In the case of corporations issuing capital stock, one       | 2267 |
| corporation owns another corporation if it owns fifty per cent   | 2268 |
| or more of the other corporation's capital stock with current    | 2269 |
| voting rights;   | 2270 |
| (b) In the case of a limited liability company, one person       | 2271 |
| owns the company if that person's membership interest, as        | 2272 |
| defined in section 1705.01 of the Revised Code, is fifty per     | 2273 |
| cent or more of the combined membership interests of all persons | 2274 |
| owning such interests in the company;                            | 2275 |
| (c) In the case of a partnership, trust, or other                | 2276 |
| unincorporated business organization other than a limited        | 2277 |
| liability company, one person owns the organization if, under    | 2278 |
| the articles of organization or other instrument governing the   | 2279 |
| affairs of the organization, that person has a beneficial        | 2280 |
| interest in the organization's profits, surpluses, losses, or    | 2281 |
| distributions of fifty per cent or more of the combined          | 2282 |
| beneficial interests of all persons having such an interest in   | 2283 |

the organization. 2284

(5) A domestic insurance company or foreign insurance 2285  
company, as defined in section 5725.01 of the Revised Code, that 2286  
paid the insurance company premiums tax imposed by section 2287  
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 2288  
insurance company whose gross premiums are subject to tax under 2289  
section 3905.36 of the Revised Code based on one or more 2290  
measurement periods that include the entire tax period under 2291  
this chapter; 2292

(6) A person that solely facilitates or services one or 2293  
more securitizations of phase-in-recovery property pursuant to a 2294  
final financing order as those terms are defined in section 2295  
4928.23 of the Revised Code. For purposes of this division, 2296  
"securitization" means transferring one or more assets to one or 2297  
more persons and then issuing securities backed by the right to 2298  
receive payment from the asset or assets so transferred. 2299

(7) Except as otherwise provided in this division, a pre- 2300  
income tax trust as defined in division (FF) (4) of section 2301  
5747.01 of the Revised Code and any pass-through entity of which 2302  
such pre-income tax trust owns or controls, directly, 2303  
indirectly, or constructively through related interests, more 2304  
than five per cent of the ownership or equity interests. If the 2305  
pre-income tax trust has made a qualifying pre-income tax trust 2306  
election under division (FF) (3) of section 5747.01 of the 2307  
Revised Code, then the trust and the pass-through entities of 2308  
which it owns or controls, directly, indirectly, or 2309  
constructively through related interests, more than five per 2310  
cent of the ownership or equity interests, shall not be excluded 2311  
persons for purposes of the tax imposed under section 5751.02 of 2312  
the Revised Code. 2313

|  |      |
|--|------|
| (8) Nonprofit organizations or the state and its agencies,       | 2314 |
| instrumentalities, or political subdivisions.                    | 2315 |
| (F) Except as otherwise provided in divisions (F) (2), (3),      | 2316 |
| and (4) of this section, "gross receipts" means the total amount | 2317 |
| realized by a person, without deduction for the cost of goods    | 2318 |
| sold or other expenses incurred, that contributes to the         | 2319 |
| production of gross income of the person, including the fair     | 2320 |
| market value of any property and any services received, and any  | 2321 |
| debt transferred or forgiven as consideration.                   | 2322 |
| (1) The following are examples of gross receipts:                | 2323 |
| (a) Amounts realized from the sale, exchange, or other           | 2324 |
| disposition of the taxpayer's property to or with another;       | 2325 |
| (b) Amounts realized from the taxpayer's performance of          | 2326 |
| services for another;  | 2327 |
| (c) Amounts realized from another's use or possession of         | 2328 |
| the taxpayer's property or capital;                              | 2329 |
| (d) Any combination of the foregoing amounts.                    | 2330 |
| (2) "Gross receipts" excludes the following amounts:             | 2331 |
| (a) Interest income except interest on credit sales;             | 2332 |
| (b) Dividends and distributions from corporations, and           | 2333 |
| distributive or proportionate shares of receipts and income from | 2334 |
| a pass-through entity as defined under section 5733.04 of the    | 2335 |
| Revised Code;  | 2336 |
| (c) Receipts from the sale, exchange, or other disposition       | 2337 |
| of an asset described in section 1221 or 1231 of the Internal    | 2338 |
| Revenue Code, without regard to the length of time the person    | 2339 |
| held the asset. Notwithstanding section 1221 of the Internal     | 2340 |

Revenue Code, receipts from hedging transactions also are 2341  
excluded to the extent the transactions are entered into 2342  
primarily to protect a financial position, such as managing the 2343  
risk of exposure to (i) foreign currency fluctuations that 2344  
affect assets, liabilities, profits, losses, equity, or 2345  
investments in foreign operations; (ii) interest rate 2346  
fluctuations; or (iii) commodity price fluctuations. As used in 2347  
division (F)(2)(c) of this section, "hedging transaction" has 2348  
the same meaning as used in section 1221 of the Internal Revenue 2349  
Code and also includes transactions accorded hedge accounting 2350  
treatment under statement of financial accounting standards 2351  
number 133 of the financial accounting standards board. For the 2352  
purposes of division (F)(2)(c) of this section, the actual 2353  
transfer of title of real or tangible personal property to 2354  
another entity is not a hedging transaction. 2355

(d) Proceeds received attributable to the repayment, 2356  
maturity, or redemption of the principal of a loan, bond, mutual 2357  
fund, certificate of deposit, or marketable instrument; 2358

(e) The principal amount received under a repurchase 2359  
agreement or on account of any transaction properly 2360  
characterized as a loan to the person; 2361

(f) Contributions received by a trust, plan, or other 2362  
arrangement, any of which is described in section 501(a) of the 2363  
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 2364  
1, Subchapter (D) of the Internal Revenue Code applies; 2365

(g) Compensation, whether current or deferred, and whether 2366  
in cash or in kind, received or to be received by an employee, 2367  
former employee, or the employee's legal successor for services 2368  
rendered to or for an employer, including reimbursements 2369  
received by or for an individual for medical or education 2370

|  |      |
|--|------|
| expenses, health insurance premiums, or employee expenses, or on | 2371 |
| account of a dependent care spending account, legal services     | 2372 |
| plan, any cafeteria plan described in section 125 of the         | 2373 |
| Internal Revenue Code, or any similar employee reimbursement;    | 2374 |
| (h) Proceeds received from the issuance of the taxpayer's        | 2375 |
| own stock, options, warrants, puts, or calls, or from the sale   | 2376 |
| of the taxpayer's treasury stock;                                | 2377 |
| (i) Proceeds received on the account of payments from            | 2378 |
| insurance policies, except those proceeds received for the loss  | 2379 |
| of business revenue;   | 2380 |
| (j) Gifts or charitable contributions received; membership       | 2381 |
| dues received by trade, professional, homeowners', or            | 2382 |
| condominium associations; and payments received for educational  | 2383 |
| courses, meetings, meals, or similar payments to a trade,        | 2384 |
| professional, or other similar association; and fundraising      | 2385 |
| receipts received by any person when any excess receipts are     | 2386 |
| donated or used exclusively for charitable purposes;             | 2387 |
| (k) Damages received as the result of litigation in excess       | 2388 |
| of amounts that, if received without litigation, would be gross  | 2389 |
| receipts;  | 2390 |
| (l) Property, money, and other amounts received or               | 2391 |
| acquired by an agent on behalf of another in excess of the       | 2392 |
| agent's commission, fee, or other remuneration;                  | 2393 |
| (m) Tax refunds, other tax benefit recoveries, and               | 2394 |
| reimbursements for the tax imposed under this chapter made by    | 2395 |
| entities that are part of the same combined taxpayer or          | 2396 |
| consolidated elected taxpayer group, and reimbursements made by  | 2397 |
| entities that are not members of a combined taxpayer or          | 2398 |
| consolidated elected taxpayer group that are required to be made | 2399 |

for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal

and state excise taxes paid by any person on or for such beer or 2429  
intoxicating liquor under subtitle E of the Internal Revenue 2430  
Code or Chapter 4301. or 4305. of the Revised Code; 2431

(t) Receipts realized by a new motor vehicle dealer or 2432  
used motor vehicle dealer, as defined in section 4517.01 of the 2433  
Revised Code, from the sale or other transfer of a motor 2434  
vehicle, as defined in that section, to another motor vehicle 2435  
dealer for the purpose of resale by the transferee motor vehicle 2436  
dealer, but only if the sale or other transfer was based upon 2437  
the transferee's need to meet a specific customer's preference 2438  
for a motor vehicle; 2439

(u) Receipts from a financial institution described in 2440  
division (E)(3) of this section for services provided to the 2441  
financial institution in connection with the issuance, 2442  
processing, servicing, and management of loans or credit 2443  
accounts, if such financial institution and the recipient of 2444  
such receipts have at least fifty per cent of their ownership 2445  
interests owned or controlled, directly or constructively 2446  
through related interests, by common owners; 2447

(v) Receipts realized from administering anti-neoplastic 2448  
drugs and other cancer chemotherapy, biologicals, therapeutic 2449  
agents, and supportive drugs in a physician's office to patients 2450  
with cancer; 2451

(w) Funds received or used by a mortgage broker that is 2452  
not a dealer in intangibles, other than fees or other 2453  
consideration, pursuant to a table-funding mortgage loan or 2454  
warehouse-lending mortgage loan. Terms used in division (F)(2) 2455  
(w) of this section have the same meanings as in section 1322.01 2456  
of the Revised Code, except "mortgage broker" means a person 2457  
assisting a buyer in obtaining a mortgage loan for a fee or 2458

other consideration paid by the buyer or a lender, or a person 2459  
engaged in table-funding or warehouse-lending mortgage loans 2460  
that are first lien mortgage loans. 2461

(x) Property, money, and other amounts received by a 2462  
professional employer organization, as defined in section 2463  
4125.01 of the Revised Code, from a client employer, as defined 2464  
in that section, in excess of the administrative fee charged by 2465  
the professional employer organization to the client employer; 2466

(y) In the case of amounts retained as commissions by a 2467  
permit holder under Chapter 3769. of the Revised Code, an amount 2468  
equal to the amounts specified under that chapter that must be 2469  
paid to or collected by the tax commissioner as a tax and the 2470  
amounts specified under that chapter to be used as purse money; 2471

(z) Qualifying distribution center receipts. 2472

(i) For purposes of division (F) (2) (z) of this section: 2473

(I) "Qualifying distribution center receipts" means 2474  
receipts of a supplier from qualified property that is delivered 2475  
to a qualified distribution center, multiplied by a quantity 2476  
that equals one minus the Ohio delivery percentage. If the 2477  
qualified distribution center is a refining facility, "supplier" 2478  
includes all dealers, brokers, processors, sellers, vendors, 2479  
cosigners, and distributors of qualified property. 2480

(II) "Qualified property" means tangible personal property 2481  
delivered to a qualified distribution center that is shipped to 2482  
that qualified distribution center solely for further shipping 2483  
by the qualified distribution center to another location in this 2484  
state or elsewhere or, in the case of gold, silver, platinum, or 2485  
palladium delivered to a refining facility solely for refining 2486  
to a grade and fineness acceptable for delivery to a registered 2487

commodities exchange. "Further shipping" includes storing and 2488  
repackaging property into smaller or larger bundles, so long as 2489  
the property is not subject to further manufacturing or 2490  
processing. "Refining" is limited to extracting impurities from 2491  
gold, silver, platinum, or palladium through smelting or some 2492  
other process at a refining facility. 2493

(III) "Qualified distribution center" means a warehouse, a 2494  
facility similar to a warehouse, or a refining facility in this 2495  
state that, for the qualifying year, is operated by a person 2496  
that is not part of a combined taxpayer group and that has a 2497  
qualifying certificate. All warehouses or facilities similar to 2498  
warehouses that are operated by persons in the same taxpayer 2499  
group and that are located within one mile of each other shall 2500  
be treated as one qualified distribution center. All refining 2501  
facilities that are operated by persons in the same taxpayer 2502  
group and that are located in the same or adjacent counties may 2503  
be treated as one qualified distribution center. 2504

(IV) "Qualifying year" means the calendar year to which 2505  
the qualifying certificate applies. 2506

(V) "Qualifying period" means the period of the first day 2507  
of July of the second year preceding the qualifying year through 2508  
the thirtieth day of June of the year preceding the qualifying 2509  
year. 2510

(VI) "Qualifying certificate" means the certificate issued 2511  
by the tax commissioner after the operator of a distribution 2512  
center files an annual application with the commissioner. The 2513  
application and annual fee shall be filed and paid for each 2514  
qualified distribution center on or before the first day of 2515  
September before the qualifying year or within forty-five days 2516  
after the distribution center opens, whichever is later. 2517

The applicant must substantiate to the commissioner's 2518  
satisfaction that, for the qualifying period, all persons 2519  
operating the distribution center have more than fifty per cent 2520  
of the cost of the qualified property shipped to a location such 2521  
that it would be situated outside this state under the provisions 2522  
of division (E) of section 5751.033 of the Revised Code. The 2523  
applicant must also substantiate that the distribution center 2524  
cumulatively had costs from its suppliers equal to or exceeding 2525  
five hundred million dollars during the qualifying period. (For 2526  
purposes of division (F) (2) (z) (i) (VI) of this section, 2527  
"supplier" excludes any person that is part of the consolidated 2528  
elected taxpayer group, if applicable, of the operator of the 2529  
qualified distribution center.) The commissioner may require the 2530  
applicant to have an independent certified public accountant 2531  
certify that the calculation of the minimum thresholds required 2532  
for a qualified distribution center by the operator of a 2533  
distribution center has been made in accordance with generally 2534  
accepted accounting principles. The commissioner shall issue or 2535  
deny the issuance of a certificate within sixty days after the 2536  
receipt of the application. A denial is subject to appeal under 2537  
section 5717.02 of the Revised Code. If the operator files a 2538  
timely appeal under section 5717.02 of the Revised Code, the 2539  
operator shall be granted a qualifying certificate effective for 2540  
the remainder of the qualifying year or until the appeal is 2541  
finalized, whichever is earlier. If the operator does not 2542  
prevail in the appeal, the operator shall pay the ineligible 2543  
operator's supplier tax liability. 2544

(VII) "Ohio delivery percentage" means the proportion of 2545  
the total property delivered to a destination inside Ohio from 2546  
the qualified distribution center during the qualifying period 2547  
compared with total deliveries from such distribution center 2548

everywhere during the qualifying period. 2549

(VIII) "Refining facility" means one or more buildings 2550  
located in a county in the Appalachian region of this state as 2551  
defined by section 107.21 of the Revised Code and utilized for 2552  
refining or smelting gold, silver, platinum, or palladium to a 2553  
grade and fineness acceptable for delivery to a registered 2554  
commodities exchange. 2555

(IX) "Registered commodities exchange" means a board of 2556  
trade, such as New York mercantile exchange, inc. or commodity 2557  
exchange, inc., designated as a contract market by the commodity 2558  
futures trading commission under the "Commodity Exchange Act," 7 2559  
U.S.C. 1 et seq., as amended. 2560

(X) "Ineligible operator's supplier tax liability" means 2561  
an amount equal to the tax liability of all suppliers of a 2562  
distribution center had the distribution center not been issued 2563  
a qualifying certificate for the qualifying year. Ineligible 2564  
operator's supplier tax liability shall not include interest or 2565  
penalties. The tax commissioner shall determine an ineligible 2566  
operator's supplier tax liability based on information that the 2567  
commissioner may request from the operator of the distribution 2568  
center. An operator shall provide a list of all suppliers of the 2569  
distribution center and the corresponding costs of qualified 2570  
property for the qualifying year at issue within sixty days of a 2571  
request by the commissioner under this division. 2572

(ii) (I) If the distribution center is new and was not open 2573  
for the entire qualifying period, the operator of the 2574  
distribution center may request that the commissioner grant a 2575  
qualifying certificate. If the certificate is granted and it is 2576  
later determined that more than fifty per cent of the qualified 2577  
property during that year was not shipped to a location such 2578

that it would be situated outside of this state under the 2579  
provisions of division (E) of section 5751.033 of the Revised 2580  
Code or if it is later determined that the person that operates 2581  
the distribution center had average monthly costs from its 2582  
suppliers of less than forty million dollars during that year, 2583  
then the operator of the distribution center shall pay the 2584  
ineligible operator's supplier tax liability. (For purposes of 2585  
division (F) (2) (z) (ii) of this section, "supplier" excludes any 2586  
person that is part of the consolidated elected taxpayer group, 2587  
if applicable, of the operator of the qualified distribution 2588  
center.) 2589

(II) The commissioner may grant a qualifying certificate 2590  
to a distribution center that does not qualify as a qualified 2591  
distribution center for an entire qualifying period if the 2592  
operator of the distribution center demonstrates that the 2593  
business operations of the distribution center have changed or 2594  
will change such that the distribution center will qualify as a 2595  
qualified distribution center within thirty-six months after the 2596  
date the operator first applies for a certificate. If, at the 2597  
end of that thirty-six-month period, the business operations of 2598  
the distribution center have not changed such that the 2599  
distribution center qualifies as a qualified distribution 2600  
center, the operator of the distribution center shall pay the 2601  
ineligible operator's supplier tax liability for each year that 2602  
the distribution center received a certificate but did not 2603  
qualify as a qualified distribution center. For each year the 2604  
distribution center receives a certificate under division (F) (2) 2605  
(z) (ii) (II) of this section, the distribution center shall pay 2606  
all applicable fees required under division (F) (2) (z) of this 2607  
section and shall submit an updated business plan showing the 2608  
progress the distribution center made toward qualifying as a 2609

qualified distribution center during the preceding year. 2610

(III) An operator may appeal a determination under 2611  
division (F) (2) (z) (ii) (I) or (II) of this section that the 2612  
ineligible operator is liable for the operator's supplier tax 2613  
liability as a result of not qualifying as a qualified 2614  
distribution center, as provided in section 5717.02 of the 2615  
Revised Code. 2616

(iii) When filing an application for a qualifying 2617  
certificate under division (F) (2) (z) (i) (VI) of this section, the 2618  
operator of a qualified distribution center also shall provide 2619  
documentation, as the commissioner requires, for the 2620  
commissioner to ascertain the Ohio delivery percentage. The 2621  
commissioner, upon issuing the qualifying certificate, also 2622  
shall certify the Ohio delivery percentage. The operator of the 2623  
qualified distribution center may appeal the commissioner's 2624  
certification of the Ohio delivery percentage in the same manner 2625  
as an appeal is taken from the denial of a qualifying 2626  
certificate under division (F) (2) (z) (i) (VI) of this section. 2627

(iv) (I) In the case where the distribution center is new 2628  
and not open for the entire qualifying period, the operator 2629  
shall make a good faith estimate of an Ohio delivery percentage 2630  
for use by suppliers in their reports of taxable gross receipts 2631  
for the remainder of the qualifying period. The operator of the 2632  
facility shall disclose to the suppliers that such Ohio delivery 2633  
percentage is an estimate and is subject to recalculation. By 2634  
the due date of the next application for a qualifying 2635  
certificate, the operator shall determine the actual Ohio 2636  
delivery percentage for the estimated qualifying period and 2637  
proceed as provided in division (F) (2) (z) (iii) of this section 2638  
with respect to the calculation and recalculation of the Ohio 2639

delivery percentage. The supplier is required to file, within 2640  
sixty days after receiving notice from the operator of the 2641  
qualified distribution center, amended reports for the impacted 2642  
calendar quarter or quarters or calendar year, whichever the 2643  
case may be. Any additional tax liability or tax overpayment 2644  
shall be subject to interest but shall not be subject to the 2645  
imposition of any penalty so long as the amended returns are 2646  
timely filed. 2647

(II) The operator of a distribution center that receives a 2648  
qualifying certificate under division (F) (2) (z) (ii) (II) of this 2649  
section shall make a good faith estimate of the Ohio delivery 2650  
percentage that the operator estimates will apply to the 2651  
distribution center at the end of the thirty-six-month period 2652  
after the operator first applied for a qualifying certificate 2653  
under that division. The result of the estimate shall be 2654  
multiplied by a factor of one and seventy-five one-hundredths. 2655  
The product of that calculation shall be the Ohio delivery 2656  
percentage used by suppliers in their reports of taxable gross 2657  
receipts for each qualifying year that the distribution center 2658  
receives a qualifying certificate under division (F) (2) (z) (ii) 2659  
(II) of this section, except that, if the product is less than 2660  
five per cent, the Ohio delivery percentage used shall be five 2661  
per cent and that, if the product exceeds forty-nine per cent, 2662  
the Ohio delivery percentage used shall be forty-nine per cent. 2663

(v) Qualifying certificates and Ohio delivery percentages 2664  
issued by the commissioner shall be open to public inspection 2665  
and shall be timely published by the commissioner. A supplier 2666  
relying in good faith on a certificate issued under this 2667  
division shall not be subject to tax on the qualifying 2668  
distribution center receipts under division (F) (2) (z) of this 2669  
section. An operator receiving a qualifying certificate is 2670

liable for the ineligible operator's supplier tax liability for 2671  
each year the operator received a certificate but did not 2672  
qualify as a qualified distribution center. 2673

(vi) The annual fee for a qualifying certificate shall be 2674  
one hundred thousand dollars for each qualified distribution 2675  
center. If a qualifying certificate is not issued, the annual 2676  
fee is subject to refund after the exhaustion of all appeals 2677  
provided for in division (F) (2) (z) (i) (VI) of this section. The 2678  
first one hundred thousand dollars of the annual application 2679  
fees collected each calendar year shall be credited to the 2680  
revenue enhancement fund. The remainder of the annual 2681  
application fees collected shall be distributed in the same 2682  
manner required under section 5751.20 of the Revised Code. 2683

(vii) The tax commissioner may require that adequate 2684  
security be posted by the operator of the distribution center on 2685  
appeal when the commissioner disagrees that the applicant has 2686  
met the minimum thresholds for a qualified distribution center 2687  
as set forth in division (F) (2) (z) of this section. 2688

(aa) Receipts of an employer from payroll deductions 2689  
relating to the reimbursement of the employer for advancing 2690  
moneys to an unrelated third party on an employee's behalf; 2691

(bb) Cash discounts allowed and taken; 2692

(cc) Returns and allowances; 2693

(dd) Bad debts from receipts on the basis of which the tax 2694  
imposed by this chapter was paid in a prior quarterly tax 2695  
payment period. For the purpose of this division, "bad debts" 2696  
means any debts that have become worthless or uncollectible 2697  
between the preceding and current quarterly tax payment periods, 2698  
have been uncollected for at least six months, and that may be 2699

claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg) (i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F) (2) (gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F) (2) (gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

(hh) In the case of amounts collected by a licensed casino operator from casino gaming, amounts in excess of the casino operator's gross casino revenue. In this division, "casino operator" and "casino gaming" have the meanings defined in section 3772.01 of the Revised Code, and "gross casino revenue" has the meaning defined in section 5753.01 of the Revised Code.

(ii) Receipts realized from the sale of agricultural 2760  
commodities by an agricultural commodity handler, both as 2761  
defined in section 926.01 of the Revised Code, that is licensed 2762  
by the director of agriculture to handle agricultural 2763  
commodities in this state. 2764

(jj) Qualifying integrated supply chain receipts. 2765

As used in division (F)(2)(jj) of this section: 2766

(i) "Qualifying integrated supply chain receipts" means 2767  
receipts of a qualified integrated supply chain vendor from the 2768  
sale of qualified property delivered to, or integrated supply 2769  
chain services provided to, another qualified integrated supply 2770  
chain vendor or to a retailer that is a member of the integrated 2771  
supply chain. "Qualifying integrated supply chain receipts" does 2772  
not include receipts of a person that is not a qualified 2773  
integrated supply chain vendor from the sale of raw materials to 2774  
a member of an integrated supply chain, or receipts of a member 2775  
of an integrated supply chain from the sale of qualified 2776  
property or integrated supply chain services to a person that is 2777  
not a member of the integrated supply chain. 2778

(ii) "Qualified property" means any of the following: 2779

(I) Component parts used to hold, contain, package, or 2780  
dispense qualified products, excluding equipment; 2781

(II) Work-in-process inventory that will become, comprise, 2782  
or form a component part of a qualified product capable of being 2783  
sold at retail, excluding equipment, machinery, furniture, and 2784  
fixtures; 2785

(III) Finished goods inventory that is a qualified product 2786  
capable of being sold at retail in the inventory's present form. 2787

(iii) "Qualified integrated supply chain vendor" means a 2788  
person that is a member of an integrated supply chain and that 2789  
provides integrated supply chain services within a qualified 2790  
integrated supply chain district to a retailer that is a member 2791  
of the integrated supply chain or to another qualified 2792  
integrated supply chain vendor that is located within the same 2793  
such district as the person but does not share a common owner 2794  
with that person. 2795

(iv) "Qualified product" means a personal care, health, or 2796  
beauty product or an aromatic product, including a candle. 2797  
"Qualified product" does not include a drug that may be 2798  
dispensed only pursuant to a prescription, durable medical 2799  
equipment, mobility enhancing equipment, or a prosthetic device, 2800  
as those terms are defined in section 5739.01 of the Revised 2801  
Code. 2802

(v) "Integrated supply chain" means two or more qualified 2803  
integrated supply chain vendors certified on the most recent 2804  
list certified to the tax commissioner under this division that 2805  
systematically collaborate and coordinate business operations 2806  
with a retailer on the flow of tangible personal property from 2807  
material sourcing through manufacturing, assembly, packaging, 2808  
and delivery to the retailer to improve long-term financial 2809  
performance of each vendor and the supply chain that includes 2810  
the retailer. 2811

For the purpose of the certification required under this 2812  
division, the reporting person for each retailer, on or before 2813  
the first day of October of each year, shall certify to the tax 2814  
commissioner a list of the qualified integrated supply chain 2815  
vendors providing or receiving integrated supply chain services 2816  
within a qualified integrated supply chain district for the 2817

ensuing calendar year. On or before the following first day of 2818  
November, the commissioner shall issue a certificate to the 2819  
retailer and to each vendor certified to the commissioner on 2820  
that list. The certificate shall include the names of the 2821  
retailer and of the qualified integrated supply chain vendors. 2822

The retailer shall notify the commissioner of any changes 2823  
to the list, including additions to or subtractions from the 2824  
list or changes in the name or legal entity of vendors certified 2825  
on the list, within sixty days after the date the retailer 2826  
becomes aware of the change. Within thirty days after receiving 2827  
that notification, the commissioner shall issue a revised 2828  
certificate to the retailer and to each vendor certified on the 2829  
list. The revised certificate shall include the effective date 2830  
of the change. 2831

Each recipient of a certificate issued pursuant to this 2832  
division shall maintain a copy of the certificate for four years 2833  
from the date the certificate was received. 2834

(vi) "Integrated supply chain services" means procuring 2835  
raw materials or manufacturing, processing, refining, 2836  
assembling, packaging, or repackaging tangible personal property 2837  
that will become finished goods inventory capable of being sold 2838  
at retail by a retailer that is a member of an integrated supply 2839  
chain. 2840

(vii) "Retailer" means a person primarily engaged in 2841  
making retail sales and any member of that person's consolidated 2842  
elected taxpayer group or combined taxpayer group, whether or 2843  
not that member is primarily engaged in making retail sales. 2844

(viii) "Qualified integrated supply chain district" means 2845  
the parcel or parcels of land from which a retailer's integrated 2846

supply chain that existed on September 29, 2015, provides or 2847  
receives integrated supply chain services, and to which all of 2848  
the following apply: 2849

(I) The parcel or parcels are located wholly in a county 2850  
having a population of greater than one hundred sixty-five 2851  
thousand but less than one hundred seventy thousand based on the 2852  
2010 federal decennial census. 2853

(II) The parcel or parcels are located wholly in the 2854  
corporate limits of a municipal corporation with a population 2855  
greater than seven thousand five hundred and less than eight 2856  
thousand based on the 2010 federal decennial census that is 2857  
partly located in the county described in division (F) (2) (jj) 2858  
(viii) (I) of this section, as those corporate limits existed on 2859  
September 29, 2015. 2860

(III) The aggregate acreage of the parcel or parcels 2861  
equals or exceeds one hundred acres. 2862

(kk) In the case of a railroad company described in 2863  
division (D) (9) of section 5727.01 of the Revised Code that 2864  
purchases dyed diesel fuel directly from a supplier as defined 2865  
by section 5736.01 of the Revised Code, an amount equal to the 2866  
product of the number of gallons of dyed diesel fuel purchased 2867  
directly from such a supplier multiplied by the average 2868  
wholesale price for a gallon of diesel fuel as determined under 2869  
section 5736.02 of the Revised Code for the period during which 2870  
the fuel was purchased multiplied by a fraction, the numerator 2871  
of which equals the rate of tax levied by section 5736.02 of the 2872  
Revised Code less the rate of tax computed in section 5751.03 of 2873  
the Revised Code, and the denominator of which equals the rate 2874  
of tax computed in section 5751.03 of the Revised Code. 2875

(ll) Receipts realized by an out-of-state disaster business from disaster work conducted in this state during a disaster response period pursuant to a qualifying solicitation received by the business. Terms used in ~~this~~ division (F) (2) (ll) of this section have the same meanings as in section 5703.94 of the Revised Code.

(mm) Receipts of a megaproject supplier that holds a certificate issued under division (D) (7) of section 122.17 of the Revised Code from sales of tangible personal property directly to a megaproject operator in this state.

(nn) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

|  |      |
|--|------|
| (G) "Taxable gross receipts" means gross receipts situated       | 2905 |
| to this state under section 5751.033 of the Revised Code.        | 2906 |
| (H) A person has "substantial nexus with this state" if          | 2907 |
| any of the following applies. The person:                        | 2908 |
| (1) Owns or uses a part or all of its capital in this            | 2909 |
| state;   | 2910 |
| (2) Holds a certificate of compliance with the laws of           | 2911 |
| this state authorizing the person to do business in this state;  | 2912 |
| (3) Has bright-line presence in this state;                      | 2913 |
| (4) Otherwise has nexus with this state to an extent that        | 2914 |
| the person can be required to remit the tax imposed under this   | 2915 |
| chapter under the Constitution of the United States.             | 2916 |
| (I) A person has "bright-line presence" in this state for        | 2917 |
| a reporting period and for the remaining portion of the calendar | 2918 |
| year if any of the following applies. The person:                | 2919 |
| (1) Has at any time during the calendar year property in         | 2920 |
| this state with an aggregate value of at least fifty thousand    | 2921 |
| dollars. For the purpose of division (I)(1) of this section,     | 2922 |
| owned property is valued at original cost and rented property is | 2923 |
| valued at eight times the net annual rental charge.              | 2924 |
| (2) Has during the calendar year payroll in this state of        | 2925 |
| at least fifty thousand dollars. Payroll in this state includes  | 2926 |
| all of the following:  | 2927 |
| (a) Any amount subject to withholding by the person under        | 2928 |
| section 5747.06 of the Revised Code;                             | 2929 |
| (b) Any other amount the person pays as compensation to an       | 2930 |
| individual under the supervision or control of the person for    | 2931 |

|   |  |
|---|--|
| work done in this state; and  | 2932   |
| (c) Any amount the person pays for services performed in this state on its behalf by another.   | 2933<br>2934   |
| (3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.  | 2935<br>2936   |
| (4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.  | 2937<br>2938<br>2939   |
| (5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.   | 2940<br>2941   |
| (J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.  | 2942<br>2943   |
| (K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes. | 2944<br>2945<br>2946<br>2947<br>2948<br>2949<br>2950<br>2951 |
| (L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.  | 2952<br>2953<br>2954   |
| (M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.  | 2955<br>2956<br>2957   |
| (N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.  | 2958<br>2959   |

|  |  |
|--|--|
| (O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.   | 2960<br>2961   |
| (P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:   | 2962<br>2963<br>2964                                 |
| (1) A person receiving a fee to sell financial instruments;  | 2965<br>2966   |
| (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;   | 2967<br>2968<br>2969                                 |
| (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;   | 2970<br>2971   |
| (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;  | 2972<br>2973   |
| (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.   | 2974<br>2975   |
| (Q) "Received" includes amounts accrued under the accrual method of accounting.  | 2976<br>2977   |
| (R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group. | 2978<br>2979<br>2980<br>2981<br>2982<br>2983<br>2984 |
| <u>(S) "Megaproject," "megaproject operator," and "megaproject supplier" have the same meanings as in section 122.17 of the Revised Code.</u>  | 2985<br>2986<br>2987                                 |

|  |      |
|--|------|
| <b>Section 2.</b> That existing sections 122.17, 3735.65,      | 2988 |
| 3735.67, 3735.671, 5709.61, 5709.62, 5709.63, 5709.631,        | 2989 |
| 5709.632, and 5751.01 of the Revised Code are hereby repealed. | 2990 |