

As Passed by the House

**130th General Assembly
Regular Session
2013-2014**

Am. H. B. No. 51

Representatives McGregor, Patmon

**Cosponsors: Representatives Wachtmann, Amstutz, Beck, Grossman,
Hackett, Huffman, Perales, Sears, Sprague, Stebelton, Terhar
Speaker Batchelder**

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A B I L L

To amend sections 9.33, 153.65, 718.01, 2937.221, 1
3354.13, 3355.10, 3357.12, 5503.31, 5503.32, 2
5513.01, 5533.31, 5537.01, 5537.02, 5537.03, 3
5537.04, 5537.05, 5537.051, 5537.06, 5537.07, 4
5537.08, 5537.09, 5537.11, 5537.12, 5537.13, 5
5537.14, 5537.15, 5537.16, 5537.17, 5537.19, 6
5537.20, 5537.21, 5537.22, 5537.24, 5537.25, 7
5537.26, 5537.27, 5537.28, 5537.30, 5728.01, 8
5735.05, 5735.23, 5739.02, 5747.01, and 5751.01; 9
to enact section 5537.18; and to repeal sections 10
126.60, 126.601, 126.602, 126.603, 126.604, and 11
126.605 of the Revised Code to authorize the Ohio 12
Turnpike Commission to issue revenue bonds for 13
infrastructure projects, to rename the Ohio 14
Turnpike Commission as the Ohio Turnpike and 15
Infrastructure Commission, to repeal authority 16
allowing the Director of Budget and Management and 17
the Director of Transportation to execute a 18
contract with a private entity for the purpose of 19
outsourcing turnpike-related highway services, to 20
make other changes in the law governing the Ohio 21

Turnpike Commission, and to make an appropriation. 22

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

Section 101.01. That sections 9.33, 153.65, 718.01, 2937.221, 23
3354.13, 3355.10, 3357.12, 5503.31, 5503.32, 5513.01, 5533.31, 24
5537.01, 5537.02, 5537.03, 5537.04, 5537.05, 5537.051, 5537.06, 25
5537.07, 5537.08, 5537.09, 5537.11, 5537.12, 5537.13, 5537.14, 26
5537.15, 5537.16, 5537.17, 5537.19, 5537.20, 5537.21, 5537.22, 27
5537.24, 5537.25, 5537.26, 5537.27, 5537.28, 5537.30, 5728.01, 28
5735.05, 5735.23, 5739.02, 5747.01, and 5751.01 be amended and 29
section 5537.18 of the Revised Code be enacted to read as follows: 30

Sec. 9.33. As used in sections 9.33 to 9.335 of the Revised 32
Code: 33

(A) "Construction manager" means a person with substantial 34
discretion and authority to plan, coordinate, manage, and direct 35
all phases of a project for the construction, demolition, 36
alteration, repair, or reconstruction of any public building, 37
structure, or other improvement, but does not mean the person who 38
provides the professional design services or who actually performs 39
the construction, demolition, alteration, repair, or 40
reconstruction work on the project. 41

(B)(1) "Construction manager at risk" means a person with 42
substantial discretion and authority to plan, coordinate, manage, 43
direct, and construct all phases of a project for the 44
construction, demolition, alteration, repair, or reconstruction of 45
any public building, structure, or other improvement and who 46
provides the public authority a guaranteed maximum price as 47
determined in section 9.334 of the Revised Code. 48

(2) As used in division (B)(1) of this section: 49

(a) "Construct" includes performing, or subcontracting for performing, construction, demolition, alteration, repair, or reconstruction.

(b) "Manage" includes approving bidders and awarding subcontracts for furnishing materials regarding, or for performing, construction, demolition, alteration, repair, or reconstruction.

(C) "Construction management contract" means a contract between a public authority and another person obligating the person to provide construction management services.

(D) "Construction management services" or "management services" means the range of services that either a construction manager or a construction manager at risk may provide.

(E) "Qualified" means having the following qualifications:

(1) Competence to perform the required management services as indicated by the technical training, education, and experience of the construction manager's or construction manager at risk's personnel, especially the technical training, education, and experience of the construction manager's or construction manager at risk's employees who would be assigned to perform the services;

(2) Ability in terms of workload and the availability of qualified personnel, equipment, and facilities to perform the required management services competently and expeditiously;

(3) Past performance as reflected by the evaluations of previous clients with respect to factors such as control of costs, quality of work, and meeting of deadlines;

(4) Financial responsibility as evidenced by the capability to provide a letter of credit pursuant to Chapter 1305. of the Revised Code, a surety bond, certified check, or cashier's check in an amount equal to the value of the construction management

contract, or by other means acceptable to the public authority; 80

(5) Other similar factors. 81

(F)~~(1)~~ "Public authority" means the state, any state 82
institution of higher education as defined in section 3345.011 of 83
the Revised Code, any county, township, municipal corporation, 84
school district, or other political subdivision, or any public 85
agency, authority, board, commission, instrumentality, or special 86
purpose district of the state or of a political subdivision. 87

~~(2) "Public authority" does not include the Ohio turnpike 88
commission. 89~~

(G) "Open book pricing method" means a method in which a 90
construction manager at risk provides the public authority, at the 91
public authority's request, all books, records, documents, and 92
other data in its possession pertaining to the bidding, pricing, 93
or performance of a construction management contract awarded to 94
the construction manager at risk. 95

Sec. 153.65. As used in sections 153.65 to 153.73 of the 96
Revised Code: 97

(A)~~(1)~~ "Public authority" means the state, a state 98
institution of higher education as defined in section 3345.011 of 99
the Revised Code, a county, township, municipal corporation, 100
school district, or other political subdivision, or any public 101
agency, authority, board, commission, instrumentality, or special 102
purpose district of the state or of a political subdivision. 103

~~(2) "Public authority" does not include the Ohio turnpike 104
commission. 105~~

(B) "Professional design firm" means any person legally 106
engaged in rendering professional design services. 107

(C) "Professional design services" means services within the 108
scope of practice of an architect or landscape architect 109

registered under Chapter 4703. of the Revised Code or a 110
professional engineer or surveyor registered under Chapter 4733. 111
of the Revised Code. 112

(D) "Qualifications" means all of the following: 113

(1)(a) For a professional design firm, competence to perform 114
the required professional design services as indicated by the 115
technical training, education, and experience of the firm's 116
personnel, especially the technical training, education, and 117
experience of the employees within the firm who would be assigned 118
to perform the services; 119

(b) For a design-build firm, competence to perform the 120
required design-build services as indicated by the technical 121
training, education, and experience of the design-build firm's 122
personnel and key consultants, especially the technical training, 123
education, and experience of the employees and consultants of the 124
design-build firm who would be assigned to perform the services, 125
including the proposed architect or engineer of record. 126

(2) Ability of the firm in terms of its workload and the 127
availability of qualified personnel, equipment, and facilities to 128
perform the required professional design services or design-build 129
services competently and expeditiously; 130

(3) Past performance of the firm as reflected by the 131
evaluations of previous clients with respect to such factors as 132
control of costs, quality of work, and meeting of deadlines; 133

(4) Any other relevant factors as determined by the public 134
authority; 135

(5) With respect to a design-build firm, compliance with 136
sections 4703.182, 4703.332, and 4733.16 of the Revised Code, 137
including the use of a licensed design professional for all design 138
services. 139

(E) "Design-build contract" means a contract between a public authority and another person that obligates the person to provide design-build services.

(F) "Design-build firm" means a person capable of providing design-build services.

(G) "Design-build services" means services that form an integrated delivery system for which a person is responsible to a public authority for both the design and construction, demolition, alteration, repair, or reconstruction of a public improvement.

(H) "Architect or engineer of record" means the architect or engineer that serves as the final signatory on the plans and specifications for the design-build project.

(I) "Criteria architect or engineer" means the architect or engineer retained by a public authority to prepare conceptual plans and specifications, to assist the public authority in connection with the establishment of the design criteria for a design-build project, and, if requested by the public authority, to serve as the representative of the public authority and provide, during the design-build project, other design and construction administration services on behalf of the public authority, including but not limited to, confirming that the design prepared by the design-build firm reflects the original design intent established in the design criteria package.

(J) "Open book pricing method" means a method in which a design-build firm provides the public authority, at the public authority's request, all books, records, documents, contracts, subcontracts, purchase orders, and other data in its possession pertaining to the bidding, pricing, or performance of a contract for design-build services awarded to the design-build firm.

Sec. 718.01. (A) As used in this chapter:

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five per cent of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(d)(i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in

the computation of federal taxable income; 201

(g) Deduct, to the extent not otherwise deducted or excluded 202
in computing federal taxable income, any income ~~derived from~~ 203
~~providing public services under a contract through a project owned~~ 204
~~by the state, as described in section 126.604 of the Revised Code~~ 205
~~or~~ derived from a transfer agreement or from the enterprise 206
transferred under that agreement under section 4313.02 of the 207
Revised Code. 208

If the taxpayer is not a C corporation and is not an 209
individual, the taxpayer shall compute adjusted federal taxable 210
income as if the taxpayer were a C corporation, except guaranteed 211
payments and other similar amounts paid or accrued to a partner, 212
former partner, member, or former member shall not be allowed as a 213
deductible expense; amounts paid or accrued to a qualified 214
self-employed retirement plan with respect to an owner or 215
owner-employee of the taxpayer, amounts paid or accrued to or for 216
health insurance for an owner or owner-employee, and amounts paid 217
or accrued to or for life insurance for an owner or owner-employee 218
shall not be allowed as a deduction. 219

Nothing in division (A)(1) of this section shall be construed 220
as allowing the taxpayer to add or deduct any amount more than 221
once or shall be construed as allowing any taxpayer to deduct any 222
amount paid to or accrued for purposes of federal self-employment 223
tax. 224

Nothing in this chapter shall be construed as limiting or 225
removing the ability of any municipal corporation to administer, 226
audit, and enforce the provisions of its municipal income tax. 227

(2) "Internal Revenue Code" means the Internal Revenue Code 228
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. 229

(3) "Schedule C" means internal revenue service schedule C 230
filed by a taxpayer pursuant to the Internal Revenue Code. 231

(4) "Form 2106" means internal revenue service form 2106	232
filed by a taxpayer pursuant to the Internal Revenue Code.	233
(5) "Intangible income" means income of any of the following	234
types: income yield, interest, capital gains, dividends, or other	235
income arising from the ownership, sale, exchange, or other	236
disposition of intangible property including, but not limited to,	237
investments, deposits, money, or credits as those terms are	238
defined in Chapter 5701. of the Revised Code, and patents,	239
copyrights, trademarks, tradenames, investments in real estate	240
investment trusts, investments in regulated investment companies,	241
and appreciation on deferred compensation. "Intangible income"	242
does not include prizes, awards, or other income associated with	243
any lottery winnings or other similar games of chance.	244
(6) "S corporation" means a corporation that has made an	245
election under subchapter S of Chapter 1 of Subtitle A of the	246
Internal Revenue Code for its taxable year.	247
(7) For taxable years beginning on or after January 1, 2004,	248
"net profit" for a taxpayer other than an individual means	249
adjusted federal taxable income and "net profit" for a taxpayer	250
who is an individual means the individual's profit required to be	251
reported on schedule C, schedule E, or schedule F, other than any	252
amount allowed as a deduction under division (E)(2) or (3) of this	253
section or amounts described in division (H) of this section.	254
(8) "Taxpayer" means a person subject to a tax on income	255
levied by a municipal corporation. Except as provided in division	256
(L) of this section, "taxpayer" does not include any person that	257
is a disregarded entity or a qualifying subchapter S subsidiary	258
for federal income tax purposes, but "taxpayer" includes any other	259
person who owns the disregarded entity or qualifying subchapter S	260
subsidiary.	261
(9) "Taxable year" means the corresponding tax reporting	262

period as prescribed for the taxpayer under the Internal Revenue Code. 263
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(10) "Tax administrator" means the individual charged with direct responsibility for administration of a tax on income levied by a municipal corporation and includes: 265
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(a) The central collection agency and the regional income tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional income tax agency; 268
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(b) A municipal corporation acting as the agent of another municipal corporation; and 272
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(c) Persons retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis. 274
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(11) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. 278
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(12) "Schedule E" means internal revenue service schedule E filed by a taxpayer pursuant to the Internal Revenue Code. 282
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(13) "Schedule F" means internal revenue service schedule F filed by a taxpayer pursuant to the Internal Revenue Code. 284
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(B) No municipal corporation shall tax income at other than a uniform rate. 286
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(C) No municipal corporation shall levy a tax on income at a rate in excess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal 288
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corporation shall file with the board of elections at least ninety 293
days before the day of the election a copy of the ordinance 294
together with a resolution specifying the date the election is to 295
be held and directing the board of elections to conduct the 296
election. The ballot shall be in the following form: "Shall the 297
Ordinance providing for a ... per cent levy on income for (Brief 298
description of the purpose of the proposed levy) be passed? 299

	FOR THE INCOME TAX	
	AGAINST THE INCOME TAX	"

In the event of an affirmative vote, the proceeds of the levy 304
may be used only for the specified purpose. 305

(D)(1) Except as otherwise provided in this section, no 306
municipal corporation shall exempt from a tax on income 307
compensation for personal services of individuals over eighteen 308
years of age or the net profit from a business or profession. 309

(2)(a) For taxable years beginning on or after January 1, 310
2004, no municipal corporation shall tax the net profit from a 311
business or profession using any base other than the taxpayer's 312
adjusted federal taxable income. 313

(b) Division (D)(2)(a) of this section does not apply to any 314
taxpayer required to file a return under section 5745.03 of the 315
Revised Code or to the net profit from a sole proprietorship. 316

(E)(1) The legislative authority of a municipal corporation 317
may, by ordinance or resolution, exempt from withholding and from 318
a tax on income the following: 319

(a) Compensation arising from the sale, exchange, or other 320
disposition of a stock option, the exercise of a stock option, or 321
the sale, exchange, or other disposition of stock purchased under 322

a stock option; or 323

(b) Compensation attributable to a nonqualified deferred 324
compensation plan or program described in section 3121(v)(2)(C) of 325
the Internal Revenue Code. 326

(2) The legislative authority of a municipal corporation may 327
adopt an ordinance or resolution that allows a taxpayer who is an 328
individual to deduct, in computing the taxpayer's municipal income 329
tax liability, an amount equal to the aggregate amount the 330
taxpayer paid in cash during the taxable year to a health savings 331
account of the taxpayer, to the extent the taxpayer is entitled to 332
deduct that amount on internal revenue service form 1040. 333

(3) The legislative authority of a municipal corporation may 334
adopt an ordinance or resolution that allows a taxpayer who has a 335
net profit from a business or profession that is operated as a 336
sole proprietorship to deduct from that net profit the amount that 337
the taxpayer paid during the taxable year for medical care 338
insurance premiums for the taxpayer, the taxpayer's spouse, and 339
dependents as defined in section 5747.01 of the Revised Code. The 340
deduction shall be allowed to the same extent the taxpayer is 341
entitled to deduct the premiums on internal revenue service form 342
1040. The deduction allowed under this division shall be net of 343
any related premium refunds, related premium reimbursements, or 344
related insurance premium dividends received by the taxpayer 345
during the taxable year. 346

(F) If an individual's taxable income includes income against 347
which the taxpayer has taken a deduction for federal income tax 348
purposes as reportable on the taxpayer's form 2106, and against 349
which a like deduction has not been allowed by the municipal 350
corporation, the municipal corporation shall deduct from the 351
taxpayer's taxable income an amount equal to the deduction shown 352
on such form allowable against such income, to the extent not 353
otherwise so allowed as a deduction by the municipal corporation. 354

(G)(1) In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit required to be reported by the taxpayer on schedule C or F from such sole proprietorship for the taxable year.

(2) In the case of a taxpayer who has a net profit from rental activity required to be reported on schedule E, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, an amount other than the net profit from rental activities required to be reported by the taxpayer on schedule E for the taxable year.

(H) A municipal corporation shall not tax any of the following:

(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard;

(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities;

(3) Except as otherwise provided in division (I) of this section, intangible income;

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand

dollars may be subjected to taxation by a municipal corporation. A 386
municipal corporation shall not require the payer of such 387
compensation to withhold any tax from that compensation. 388

(5) Compensation paid to an employee of a transit authority, 389
regional transit authority, or regional transit commission created 390
under Chapter 306. of the Revised Code for operating a transit bus 391
or other motor vehicle for the authority or commission in or 392
through the municipal corporation, unless the bus or vehicle is 393
operated on a regularly scheduled route, the operator is subject 394
to such a tax by reason of residence or domicile in the municipal 395
corporation, or the headquarters of the authority or commission is 396
located within the municipal corporation; 397

(6) The income of a public utility, when that public utility 398
is subject to the tax levied under section 5727.24 or 5727.30 of 399
the Revised Code, except a municipal corporation may tax the 400
following, subject to Chapter 5745. of the Revised Code: 401

(a) Beginning January 1, 2002, the income of an electric 402
company or combined company; 403

(b) Beginning January 1, 2004, the income of a telephone 404
company. 405

As used in division (H)(6) of this section, "combined 406
company," "electric company," and "telephone company" have the 407
same meanings as in section 5727.01 of the Revised Code. 408

(7) On and after January 1, 2003, items excluded from federal 409
gross income pursuant to section 107 of the Internal Revenue Code; 410

(8) On and after January 1, 2001, compensation paid to a 411
nonresident individual to the extent prohibited under section 412
718.011 of the Revised Code; 413

(9)(a) Except as provided in division (H)(9)(b) and (c) of 414
this section, an S corporation shareholder's distributive share of 415

net profits of the S corporation, other than any part of the 416
distributive share of net profits that represents wages as defined 417
in section 3121(a) of the Internal Revenue Code or net earnings 418
from self-employment as defined in section 1402(a) of the Internal 419
Revenue Code. 420

(b) If, pursuant to division (H) of former section 718.01 of 421
the Revised Code as it existed before March 11, 2004, a majority 422
of the electors of a municipal corporation voted in favor of the 423
question at an election held on November 4, 2003, the municipal 424
corporation may continue after 2002 to tax an S corporation 425
shareholder's distributive share of net profits of an S 426
corporation. 427

(c) If, on December 6, 2002, a municipal corporation was 428
imposing, assessing, and collecting a tax on an S corporation 429
shareholder's distributive share of net profits of the S 430
corporation to the extent the distributive share would be 431
allocated or apportioned to this state under divisions (B)(1) and 432
(2) of section 5733.05 of the Revised Code if the S corporation 433
were a corporation subject to taxes imposed under Chapter 5733. of 434
the Revised Code, the municipal corporation may continue to impose 435
the tax on such distributive shares to the extent such shares 436
would be so allocated or apportioned to this state only until 437
December 31, 2004, unless a majority of the electors of the 438
municipal corporation voting on the question of continuing to tax 439
such shares after that date vote in favor of that question at an 440
election held November 2, 2004. If a majority of those electors 441
vote in favor of the question, the municipal corporation may 442
continue after December 31, 2004, to impose the tax on such 443
distributive shares only to the extent such shares would be so 444
allocated or apportioned to this state. 445

(d) For the purposes of division (D) of section 718.14 of the 446
Revised Code, a municipal corporation shall be deemed to have 447

elected to tax S corporation shareholders' distributive shares of 448
net profits of the S corporation in the hands of the shareholders 449
if a majority of the electors of a municipal corporation vote in 450
favor of a question at an election held under division (H)(9)(b) 451
or (c) of this section. The municipal corporation shall specify by 452
ordinance or rule that the tax applies to the distributive share 453
of a shareholder of an S corporation in the hands of the 454
shareholder of the S corporation. 455

(10) Employee compensation that is not "qualifying wages" as 456
defined in section 718.03 of the Revised Code; 457

(11) Beginning August 1, 2007, compensation paid to a person 458
employed within the boundaries of a United States air force base 459
under the jurisdiction of the United States air force that is used 460
for the housing of members of the United States air force and is a 461
center for air force operations, unless the person is subject to 462
taxation because of residence or domicile. If the compensation is 463
subject to taxation because of residence or domicile, municipal 464
income tax shall be payable only to the municipal corporation of 465
residence or domicile. 466

(I) Any municipal corporation that taxes any type of 467
intangible income on March 29, 1988, pursuant to Section 3 of 468
Amended Substitute Senate Bill No. 238 of the 116th general 469
assembly, may continue to tax that type of income after 1988 if a 470
majority of the electors of the municipal corporation voting on 471
the question of whether to permit the taxation of that type of 472
intangible income after 1988 vote in favor thereof at an election 473
held on November 8, 1988. 474

(J) Nothing in this section or section 718.02 of the Revised 475
Code shall authorize the levy of any tax on income that a 476
municipal corporation is not authorized to levy under existing 477
laws or shall require a municipal corporation to allow a deduction 478
from taxable income for losses incurred from a sole proprietorship 479

or partnership. 480

(K)(1) Nothing in this chapter prohibits a municipal 481
corporation from allowing, by resolution or ordinance, a net 482
operating loss carryforward. 483

(2) Nothing in this chapter requires a municipal corporation 484
to allow a net operating loss carryforward. 485

(L)(1) A single member limited liability company that is a 486
disregarded entity for federal tax purposes may elect to be a 487
separate taxpayer from its single member in all Ohio municipal 488
corporations in which it either filed as a separate taxpayer or 489
did not file for its taxable year ending in 2003, if all of the 490
following conditions are met: 491

(a) The limited liability company's single member is also a 492
limited liability company; 493

(b) The limited liability company and its single member were 494
formed and doing business in one or more Ohio municipal 495
corporations for at least five years before January 1, 2004; 496

(c) Not later than December 31, 2004, the limited liability 497
company and its single member each make an election to be treated 498
as a separate taxpayer under division (L) of this section; 499

(d) The limited liability company was not formed for the 500
purpose of evading or reducing Ohio municipal corporation income 501
tax liability of the limited liability company or its single 502
member; 503

(e) The Ohio municipal corporation that is the primary place 504
of business of the sole member of the limited liability company 505
consents to the election. 506

(2) For purposes of division (L)(1)(e) of this section, a 507
municipal corporation is the primary place of business of a 508
limited liability company if, for the limited liability company's 509

taxable year ending in 2003, its income tax liability is greater 510
in that municipal corporation than in any other municipal 511
corporation in Ohio, and that tax liability to that municipal 512
corporation for its taxable year ending in 2003 is at least four 513
hundred thousand dollars. 514

Sec. 2937.221. (A) A person arrested without warrant for any 515
violation listed in division (B) of this section, and having a 516
current valid Ohio driver's or commercial driver's license, if the 517
person has been notified of the possible consequences of the 518
person's actions as required by division (C) of this section, may 519
post bond by depositing the license with the arresting officer if 520
the officer and person so choose, or with the local court having 521
jurisdiction if the court and person so choose. The license may be 522
used as bond only during the period for which it is valid. 523

When an arresting officer accepts the driver's or commercial 524
driver's license as bond, the officer shall note the date, time, 525
and place of the court appearance on "the violator's notice to 526
appear," and the notice shall serve as a valid Ohio driver's or 527
commercial driver's license until the date and time appearing 528
thereon. The arresting officer immediately shall forward the 529
license to the appropriate court. 530

When a local court accepts the license as bond or continues 531
the case to another date and time, it shall provide the person 532
with a card in a form approved by the registrar of motor vehicles 533
setting forth the license number, name, address, the date and time 534
of the court appearance, and a statement that the license is being 535
held as bond. The card shall serve as a valid license until the 536
date and time contained in the card. 537

The court may accept other bond at any time and return the 538
license to the person. The court shall return the license to the 539
person when judgment is satisfied, including, but not limited to, 540

compliance with any court orders, unless a suspension or 541
cancellation is part of the penalty imposed. 542

Neither "the violator's notice to appear" nor a court- 543
granted card shall continue driving privileges beyond the 544
expiration date of the license. 545

If the person arrested fails to appear in court at the date 546
and time set by the court or fails to satisfy the judgment of the 547
court, including, but not limited to, compliance with all court 548
orders within the time allowed by the court, the court may declare 549
the forfeiture of the person's license. Thirty days after the 550
declaration of the forfeiture, the court shall forward the 551
person's license to the registrar. The court also shall enter 552
information relative to the forfeiture on a form approved and 553
furnished by the registrar and send the form to the registrar. The 554
registrar shall suspend the person's license and send written 555
notification of the suspension to the person at the person's last 556
known address. No valid driver's or commercial driver's license 557
shall be granted to the person until the court having jurisdiction 558
orders that the forfeiture be terminated. The court shall inform 559
the registrar of the termination of the forfeiture by entering 560
information relative to the termination on a form approved and 561
furnished by the registrar and sending the form to the registrar. 562
Upon the termination, the person shall pay to the bureau of motor 563
vehicles a reinstatement fee of fifteen dollars to cover the costs 564
of the bureau in administering this section. The registrar shall 565
deposit the fees so paid into the state bureau of motor vehicles 566
fund created by section 4501.25 of the Revised Code. 567

In addition, upon receipt from the court of the copy of the 568
declaration of forfeiture, neither the registrar nor any deputy 569
registrar shall accept any application for the registration or 570
transfer of registration of any motor vehicle owned by or leased 571
in the name of the person named in the declaration of forfeiture 572

until the court having jurisdiction over the offense that led to 573
the suspension issues an order terminating the forfeiture. 574
However, for a motor vehicle leased in the name of a person named 575
in a declaration of forfeiture, the registrar shall not implement 576
the preceding sentence until the registrar adopts procedures for 577
that implementation under section 4503.39 of the Revised Code. 578
Upon receipt by the registrar of such an order, the registrar also 579
shall take the measures necessary to permit the person to register 580
a motor vehicle the person owns or leases or to transfer the 581
registration of a motor vehicle the person owns or leases if the 582
person later makes a proper application and otherwise is eligible 583
to be issued or to transfer a motor vehicle registration. 584

(B) Division (A) of this section applies to persons arrested 585
for violation of: 586

(1) Any of the provisions of Chapter 4511. or 4513. of the 587
Revised Code, except sections 4511.19, 4511.20, 4511.251, and 588
4513.36 of the Revised Code; 589

(2) Any municipal ordinance substantially similar to a 590
section included in division (B)(1) of this section; 591

(3) Any bylaw, rule, or regulation of the Ohio turnpike and 592
infrastructure commission substantially similar to a section 593
included in division (B)(1) of this section. 594

Division (A) of this section does not apply to those persons 595
issued a citation for the commission of a minor misdemeanor under 596
section 2935.26 of the Revised Code. 597

(C) No license shall be accepted as bond by an arresting 598
officer or by a court under this section until the officer or 599
court has notified the person that, if the person deposits the 600
license with the officer or court and either does not appear on 601
the date and at the time set by the officer or the court, if the 602
court sets a time, or does not satisfy any judgment rendered, 603

including, but not limited to, compliance with all court orders, 604
the license will be suspended, and the person will not be eligible 605
for reissuance of the license or issuance of a new license, or the 606
issuance of a certificate of registration for a motor vehicle 607
owned or leased by the person until the person appears and 608
complies with any order issued by the court. The person also is 609
subject to any criminal penalties that may apply to the person. 610

(D) The registrar shall not restore the person's driving or 611
vehicle registration privileges until the person pays the 612
reinstatement fee as provided in this section. 613

Sec. 3354.13. The ownership of a community college created 614
and established pursuant to provisions of sections 3354.02 and 615
3354.04 of the Revised Code, including all right, title, and 616
interest in and to all property, both real and personal, 617
pertaining thereto, shall be vested in the board of trustees of 618
the community college district in which such college is situated, 619
except as may be provided in a contract entered into under the 620
authority of division (A) of section 3354.09 of the Revised Code. 621
The board may acquire by appropriation any land, rights, rights of 622
way, franchises, easements, or other property necessary or proper 623
for the construction or the efficient operation of any facility of 624
the community college district, pursuant to the procedure provided 625
in section 5537.06 of the Revised Code, with respect to the Ohio 626
turnpike and infrastructure commission, and insofar as such 627
procedure is applicable. 628

Any instrument by which real property is acquired pursuant to 629
this section shall identify the agency of the state that has the 630
use and benefit of the real property as specified in section 631
5301.012 of the Revised Code. 632

Sec. 3355.10. The ownership of the university branch campus, 633

created and established pursuant to sections 3355.01 to 3355.14 of 634
the Revised Code, including all right, title, and interest in and 635
to all property, both real and personal, pertaining thereto, shall 636
be vested in the managing authority of the university branch 637
district. The board may acquire by appropriation any land, rights, 638
rights of way, franchises, easements, or other property necessary 639
or proper for the construction or the efficient operation of any 640
facility of the university branch district, pursuant to section 641
5537.06 of the Revised Code, with respect to the Ohio turnpike and 642
infrastructure commission, and insofar as such procedure is 643
applicable. 644

University branch district bonds, issued pursuant to section 645
3355.08 of the Revised Code, are lawful investments of banks, 646
savings banks, trust companies, trustees, boards of trustees of 647
sinking funds of municipal corporations, school districts, 648
counties, the administrator of workers' compensation, the state 649
teachers retirement system, the public employees retirement 650
system, and the school employees retirement system, and also are 651
acceptable as security for the deposit of public moneys. 652

Any instrument by which real property is acquired pursuant to 653
this section shall identify the agency of the state that has the 654
use and benefit of the real property as specified in section 655
5301.012 of the Revised Code. 656

Sec. 3357.12. The ownership of a technical college, created 657
and established pursuant to section 3357.07 of the Revised Code, 658
including all right, title, and interest in and to all property, 659
both real and personal, pertaining thereto, shall be vested in the 660
board of trustees of the technical college district in which such 661
college is situated. The board may acquire by appropriation any 662
land, rights, rights-of-way, franchises, easements, or other 663
property necessary or proper for the construction or the efficient 664

operation of any facility of the technical college district, 665
pursuant to the procedure provided in section 5537.06 of the 666
Revised Code, with respect to the Ohio turnpike and infrastructure 667
commission, and insofar as such procedure is applicable. 668

Any instrument by which real property is acquired pursuant to 669
this section shall identify the agency of the state that has the 670
use and benefit of the real property as specified in section 671
5301.012 of the Revised Code. 672

Sec. 5503.31. The state highway patrol shall have the same 673
authority as is conferred upon it by section 5503.02 of the 674
Revised Code with respect to the enforcement of state laws on 675
other roads and highways and on other state properties, to enforce 676
on all turnpike projects the laws of the state and the bylaws, 677
rules, and regulations of the Ohio turnpike and infrastructure 678
commission. The patrol, the superintendent of the patrol, and all 679
state highway patrol troopers shall have the same authority to 680
make arrests on all turnpike projects for violations of state laws 681
and of bylaws, rules, and regulations of the Ohio turnpike and 682
infrastructure commission as is conferred upon them by section 683
5503.02 of the Revised Code to make arrests on, and in connection 684
with offenses committed on, other roads and highways and on other 685
state properties. 686

Sec. 5503.32. The director of public safety may from time to 687
time enter into contracts with the Ohio turnpike and 688
infrastructure commission with respect to the policing of turnpike 689
projects by the state highway patrol. The contracts shall provide 690
for the reimbursement of the state by the commission for the costs 691
incurred by the patrol in policing turnpike projects, including, 692
but not limited to, the salaries of employees of the patrol 693
assigned to the policing, the current costs of funding retirement 694
pensions for the employees of the patrol and of providing workers' 695

compensation for them, the cost of training state highway patrol 696
troopers and radio operators assigned to turnpike projects, and 697
the cost of equipment and supplies used by the patrol in such 698
policing, and of housing for such troopers and radio operators, to 699
the extent that the equipment, supplies, and housing are not 700
directly furnished by the commission. Each contract may provide 701
for the ascertainment of such costs, and shall be of any duration, 702
not in excess of five years, and may contain any other terms, that 703
the director and the commission may agree upon. The patrol shall 704
not be obligated to furnish policing services on any turnpike 705
project beyond the extent required by the contract. All payments 706
pursuant to any contract in reimbursement of the costs of the 707
policing shall be deposited in the state treasury to the credit of 708
the turnpike policing fund, which is hereby created. All 709
investment earnings of the fund shall be credited to the fund. 710

Sec. 5513.01. (A) All purchases of machinery, materials, 711
supplies, or other articles that the director of transportation 712
makes shall be in the manner provided in this section. In all 713
cases except those in which the director provides written 714
authorization for purchases by district deputy directors of 715
transportation, all such purchases shall be made at the central 716
office of the department of transportation in Columbus. Before 717
making any purchase at that office, the director, as provided in 718
this section, shall give notice to bidders of the director's 719
intention to purchase. Where the expenditure does not exceed the 720
amount applicable to the purchase of supplies specified in 721
division (B) of section 125.05 of the Revised Code, as adjusted 722
pursuant to division (D) of that section, the director shall give 723
such notice as the director considers proper, or the director may 724
make the purchase without notice. Where the expenditure exceeds 725
the amount applicable to the purchase of supplies specified in 726
division (B) of section 125.05 of the Revised Code, as adjusted 727

pursuant to division (D) of that section, the director shall give 728
notice by posting for not less than ten days a written, typed, or 729
printed invitation to bidders on a bulletin board, which shall be 730
located in a place in the offices assigned to the department and 731
open to the public during business hours. Producers or 732
distributors of any product may notify the director, in writing, 733
of the class of articles for the furnishing of which they desire 734
to bid and their post-office addresses, in which case copies of 735
all invitations to bidders relating to the purchase of such 736
articles shall be mailed to such persons by the director by 737
regular first class mail at least ten days prior to the time fixed 738
for taking bids. The director also may mail copies of all 739
invitations to bidders to news agencies or other agencies or 740
organizations distributing information of this character. Requests 741
for invitations shall not be valid nor require action by the 742
director unless renewed, either annually or after such shorter 743
period as the director may prescribe by a general rule. The 744
invitation to bidders shall contain a brief statement of the 745
general character of the article that it is intended to purchase, 746
the approximate quantity desired, and a statement of the time and 747
place where bids will be received, and may relate to and describe 748
as many different articles as the director thinks proper, it being 749
the intent and purpose of this section to authorize the inclusion 750
in a single invitation of as many different articles as the 751
director desires to invite bids upon at any given time. 752
Invitations issued during each calendar year shall be given 753
consecutive numbers, and the number assigned to each invitation 754
shall appear on all copies thereof. In all cases where notice is 755
required by this section, sealed bids shall be taken, on forms 756
prescribed and furnished by the director, and modification of bids 757
after they have been opened shall not be permitted. 758

(B) The director may permit the Ohio turnpike and 759
infrastructure commission, any political subdivision, and any 760

state university or college to participate in contracts into which 761
the director has entered for the purchase of machinery, materials, 762
supplies, or other articles. The turnpike and infrastructure 763
commission and any political subdivision or state university or 764
college desiring to participate in such purchase contracts shall 765
file with the director a certified copy of the bylaws or rules of 766
the turnpike and infrastructure commission or the ordinance or 767
resolution of the legislative authority, board of trustees, or 768
other governing board requesting authorization to participate in 769
such contracts and agreeing to be bound by such terms and 770
conditions as the director prescribes. Purchases made by the 771
turnpike and infrastructure commission, political subdivisions, or 772
state universities or colleges under this division are exempt from 773
any competitive bidding required by law for the purchase of 774
machinery, materials, supplies, or other articles. 775

(C) As used in this section: 776

(1) "Political subdivision" means any county, township, 777
municipal corporation, conservancy district, township park 778
district, park district created under Chapter 1545. of the Revised 779
Code, port authority, regional transit authority, regional airport 780
authority, regional water and sewer district, county transit 781
board, or school district as defined in section 5513.04 of the 782
Revised Code. 783

(2) "State university or college" has the same meaning as in 784
division (A)(1) of section 3345.32 of the Revised Code. 785

(3) "Ohio turnpike and infrastructure commission" means the 786
commission created by section 5537.02 of the Revised Code. 787

Sec. 5533.31. The road known as interstate route eighty, 788
extending across Ohio from the Pennsylvania border in Trumbull 789
county to the Indiana border in Williams county, shall be known as 790
the "Christopher Columbus highway." 791

The director of transportation may erect suitable markers 792
upon the portions of such highway under ~~his~~ the director's 793
jurisdiction indicating its name, and the Ohio turnpike and 794
infrastructure commission may erect suitable markers on the 795
portions of such highway under its jurisdiction indicating its 796
name. 797

Sec. 5537.01. As used in this chapter: 798

(A) "Commission" means the Ohio turnpike and infrastructure 799
commission created by section 5537.02 of the Revised Code or, if 800
that commission is abolished, the board, body, officer, or 801
commission succeeding to the principal functions thereof or to 802
which the powers given by this chapter to the commission are given 803
by law. 804

(B) "~~Project~~ or "~~turnpike~~ Turnpike project" means any 805
express or limited access highway, super highway, or motorway 806
constructed, operated, or improved, under the jurisdiction of the 807
commission and pursuant to this chapter, at a location or 808
locations reviewed by the turnpike legislative review committee 809
and approved by the governor, including all bridges, tunnels, 810
overpasses, underpasses, interchanges, entrance plazas, 811
approaches, those portions of connecting public roads that serve 812
interchanges and are determined by the commission and the director 813
of transportation to be necessary for the safe merging of traffic 814
between the turnpike project and those public roads, toll booths, 815
service facilities, and administration, storage, and other 816
buildings, property, and facilities that the commission considers 817
necessary for the operation or policing of the turnpike project, 818
together with all property and rights which may be acquired by the 819
commission for the construction, maintenance, or operation of the 820
turnpike project, and includes any sections or extensions of a 821
turnpike project designated by the commission as such for the 822

particular purpose. Each turnpike project shall be separately 823
designated, by name or number, and may be constructed, improved, 824
or extended in such sections as the commission may from time to 825
time determine. Construction includes the improvement and 826
renovation of a previously constructed turnpike project, including 827
additional interchanges, whether or not the turnpike project was 828
initially constructed by the commission. 829

(C) "Infrastructure project" means any public express or 830
limited access highway, super highway, or motorway, including all 831
bridges, tunnels, overpasses, underpasses, interchanges, entrance 832
plazas, approaches, and those portions of connecting public roads 833
that serve interchanges, that is constructed or improved, in whole 834
or in part, with infrastructure funding approved pursuant to 835
criteria established under section 5537.18 of the Revised Code. 836

(D) "Cost," as applied to construction of a turnpike project 837
or an infrastructure project, includes the cost of construction, 838
including bridges over or under existing highways and railroads, 839
acquisition of all property acquired either by the commission or 840
by the owner of the infrastructure project for the construction, 841
demolishing or removing any buildings or structures on land so 842
acquired, including the cost of acquiring any lands to which the 843
buildings or structures may be moved, site clearance, improvement, 844
and preparation, diverting public roads, interchanges with public 845
roads, access roads to private property, including the cost of 846
land or easements therefor, all machinery, furnishings, and 847
equipment, communications facilities, financing expenses, interest 848
prior to and during construction and for one year after completion 849
of construction, traffic estimates, indemnity and surety bonds and 850
premiums on insurance, title work and title commitments, 851
insurance, and guarantees, engineering, feasibility studies, and 852
legal expenses, plans, specifications, surveys, estimates of cost 853
and revenues, other expenses necessary or incident to determining 854

the feasibility or practicability of constructing or operating a 855
turnpike project or an infrastructure project, administrative 856
expenses, and any other expense that may be necessary or incident 857
to the construction of the turnpike project or an infrastructure 858
project, the financing of the construction, and the placing of the 859
turnpike project or an infrastructure project in operation. Any 860
obligation or expense incurred by the department of transportation 861
with the approval of the commission for surveys, borings, 862
preparation of plans and specifications, and other engineering 863
services in connection with the construction of a turnpike project 864
or an infrastructure project, or by the federal government with 865
the approval of the commission for any public road projects which 866
must be reimbursed as a condition to the exercise of any of the 867
powers of the commission under this chapter, shall be regarded as 868
a part of the cost of the turnpike project or an infrastructure 869
project and shall be reimbursed to the state or the federal 870
government, as the case may be, from revenues, state taxes, or the 871
proceeds of bonds as authorized by this chapter. 872

~~(D)~~(E) "Owner" includes all persons having any title or 873
interest in any property authorized to be acquired by the 874
commission for turnpike projects under this chapter, or the public 875
entity for whom an infrastructure project is funded, in whole or 876
in part, by the commission under this chapter. 877

~~(E)~~(F) "Revenues" means all tolls, service revenues, 878
investment income on special funds, rentals, gifts, grants, and 879
all other moneys coming into the possession of or under the 880
control of the commission by virtue of this chapter, except the 881
proceeds from the sale of bonds. "Revenues" does not include state 882
taxes. 883

~~(F)~~(G) "Public roads" means all public highways, roads, and 884
streets in the state, whether maintained by a state agency or any 885
other governmental agency. 886

~~(G)~~(H) "Public utility facilities" means tracks, pipes, 887
mains, conduits, cables, wires, towers, poles, and other equipment 888
and appliances of any public utility. 889

~~(H)~~(I) "Financing expenses" means all costs and expenses 890
relating to the authorization, issuance, sale, delivery, 891
authentication, deposit, custody, clearing, registration, 892
transfer, exchange, fractionalization, replacement, payment, and 893
servicing of bonds including, without limitation, costs and 894
expenses for or relating to publication and printing, postage, 895
delivery, preliminary and final official statements, offering 896
circulars, and informational statements, travel and 897
transportation, underwriters, placement agents, investment 898
bankers, paying agents, registrars, authenticating agents, 899
remarketing agents, custodians, clearing agencies or corporations, 900
securities depositories, financial advisory services, 901
certifications, audits, federal or state regulatory agencies, 902
accounting and computation services, legal services and obtaining 903
approving legal opinions and other legal opinions, credit ratings, 904
redemption premiums, and credit enhancement facilities. 905

~~(I)~~(J) "Bond proceedings" means the resolutions, trust 906
agreements, certifications, notices, sale proceedings, leases, 907
lease-purchase agreements, assignments, credit enhancement 908
facility agreements, and other agreements, instruments, and 909
documents, as amended and supplemented, or any one or more or any 910
combination thereof, authorizing, or authorizing or providing for 911
the terms and conditions applicable to, or providing for the 912
security or sale or award or liquidity of, bonds, and includes the 913
provisions set forth or incorporated in those bonds and bond 914
proceedings. 915

~~(J)~~(K) "Bond service charges" means principal, including any 916
mandatory sinking fund or mandatory redemption requirements for 917
the retirement of bonds, and interest and any redemption premium 918

payable on bonds, as those payments come due and are payable to 919
the bondholder or to a person making payment under a credit 920
enhancement facility of those bond service charges to a 921
bondholder. 922

~~(K)~~(L) "Bond service fund" means the applicable fund created 923
by the bond proceedings for and pledged to the payment of bond 924
service charges on bonds provided for by those proceedings, 925
including all moneys and investments, and earnings from 926
investments, credited and to be credited to that fund as provided 927
in the bond proceedings. 928

~~(L)~~(M) "Bonds" means bonds, notes, including notes 929
anticipating bonds or other notes, commercial paper, certificates 930
of participation, or other evidences of obligation, including any 931
interest coupons pertaining thereto, issued by the commission 932
pursuant to this chapter. 933

~~(M)~~(N) "Infrastructure fund" means the applicable fund or 934
funds created by the bond proceedings, which shall be used to pay 935
or defray the cost of infrastructure projects recommended by the 936
director of transportation and evaluated and approved by the 937
commission. 938

(O) "Net revenues" means revenues lawfully available to pay 939
both current operating expenses of the commission and bond service 940
charges in any fiscal year or other specified period, less current 941
operating expenses of the commission and any amount necessary to 942
maintain a working capital reserve for that period. 943

~~(N)~~(P) "Pledged revenues" means net revenues, moneys and 944
investments, and earnings on those investments, in the applicable 945
bond service fund and any other special funds, and the proceeds of 946
any bonds issued for the purpose of refunding prior bonds, all as 947
lawfully available and by resolution of the commission committed 948
for application as pledged revenues to the payment of bond service 949

charges on particular issues of bonds. 950

~~(O)~~(O) "Service facilities" means service stations, 951
restaurants, and other facilities for food service, roadside parks 952
and rest areas, parking, camping, tenting, rest, and sleeping 953
facilities, hotels or motels, and all similar and other facilities 954
providing services to the traveling public in connection with the 955
use of a turnpike project and owned, leased, licensed, or operated 956
by the commission. 957

~~(P)~~(R) "Service revenues" means those revenues of the 958
commission derived from its ownership, leasing, licensing, or 959
operation of service facilities. 960

~~(Q)~~(S) "Special funds" means the applicable bond service fund 961
and any accounts and subaccounts in that fund, any other funds or 962
accounts permitted by and established under, and identified as a 963
"special fund" or "special account" in, the bond proceedings, 964
including any special fund or account established for purposes of 965
rebate or other requirements under federal income tax laws. 966

~~(R)~~(T) "State agencies" means the state, officers of the 967
state, and boards, departments, branches, divisions, or other 968
units or agencies of the state. 969

~~(S)~~(U) "State taxes" means receipts of the commission from 970
the proceeds of state taxes or excises levied and collected, or 971
appropriated by the general assembly to the commission, for the 972
purposes and functions of the commission. State taxes do not 973
include tolls, or investment earnings on state taxes except on 974
those state taxes referred to in Section 5a of Article XII, Ohio 975
Constitution. 976

~~(T)~~(V) "Tolls" means tolls, special fees or permit fees, or 977
other charges by the commission to the owners, lessors, lessees, 978
or operators of motor vehicles for the operation of or the right 979
to operate those vehicles on a turnpike project. 980

~~(U)~~(W) "Credit enhancement facilities" means letters of 981
credit, lines of credit, standby, contingent, or firm securities 982
purchase agreements, insurance, or surety arrangements, 983
guarantees, and other arrangements that provide for direct or 984
contingent payment of bond service charges, for security or 985
additional security in the event of nonpayment or default in 986
respect of bonds, or for making payment of bond service charges 987
and at the option and on demand of bondholders or at the option of 988
the commission or upon certain conditions occurring under put or 989
similar arrangements, or for otherwise supporting the credit or 990
liquidity of the bonds, and includes credit, reimbursement, 991
marketing, remarketing, indexing, carrying, interest rate hedge, 992
and subrogation agreements, and other agreements and arrangements 993
for payment and reimbursement of the person providing the credit 994
enhancement facility and the security for that payment and 995
reimbursement. 996

~~(V)~~(X) "Person" has the same meaning as in section 1.59 of 997
the Revised Code and, unless the context otherwise provides, also 998
includes any governmental agency and any combination of those 999
persons. 1000

~~(W)~~(Y) "Refund" means to fund and retire outstanding bonds, 1001
including advance refunding with or without payment or redemption 1002
prior to stated maturity. 1003

~~(X)~~(Z) "Governmental agency" means any state agency, federal 1004
agency, political subdivision, or other local, interstate, or 1005
regional governmental agency, and any combination of those 1006
agencies. 1007

~~(Y)~~(AA) "Property" has the same meaning as in section 1.59 of 1008
the Revised Code, and includes interests in property. 1009

~~(Z)~~(BB) "Administrative agent," "agent," "commercial paper," 1010
"floating rate interest structure," "indexing agent," "interest 1011

rate hedge," "interest rate period," "put arrangement," and 1012
"remarketing agent" have the same meanings as in section 9.98 of 1013
the Revised Code. 1014

~~(AA)~~(CC) "Outstanding," as applied to bonds, means 1015
outstanding in accordance with the terms of the bonds and the 1016
applicable bond proceedings. 1017

~~(BB)~~(DD) "Ohio turnpike system" or "system" means all 1018
existing and future turnpike projects constructed, operated, and 1019
maintained under the jurisdiction of the commission. 1020

(EE) "Ohio turnpike and infrastructure system" means turnpike 1021
projects and infrastructure projects funded by the commission 1022
existing on and after July 1, 2013. 1023

Sec. 5537.02. (A) There is hereby created a commission to be 1024
known on and after July 1, 2013, as the "Ohio turnpike and 1025
infrastructure commission." The commission is a body both 1026
corporate and politic, constituting an instrumentality of the 1027
state, and the exercise by it of the powers conferred by this 1028
chapter in the construction, operation, and maintenance of the 1029
Ohio turnpike system, and also in entering into agreements with 1030
the department of transportation to pay the cost or a portion of 1031
the costs of infrastructure projects, are and shall be held to be 1032
essential governmental functions of the state, but the commission 1033
shall not be immune from liability by reason thereof. Chapter 1034
2744. of the Revised Code applies to the commission and the 1035
commission is a political subdivision of the state for purposes of 1036
that chapter. The commission is subject to all provisions of law 1037
generally applicable to state agencies which do not conflict with 1038
this chapter. 1039

(B)(1) The commission shall consist of ~~nine~~ ten members as 1040
follows: 1041

(a) ~~Four~~ Six members appointed by the governor with the 1042
advice and consent of the senate, no more than ~~two~~ three of whom 1043
shall be members of the same political party; 1044

(b) The director of transportation, who shall be a voting 1045
member, and the director of budget and management, ~~and the~~ 1046
~~director of development, each~~ both of whom shall ~~be a member~~ serve 1047
as ex officio members, without compensation; 1048

(c) One member of the senate, appointed by the president of 1049
the senate, who shall represent either a district in which is 1050
located or through which passes a portion of a turnpike project 1051
that is part of the Ohio turnpike system or a district located in 1052
the vicinity of a turnpike project that is part of the Ohio 1053
turnpike system; 1054

(d) One member of the house of representatives, appointed by 1055
the speaker of the house of representatives, who shall represent 1056
either a district in which is located or through which passes a 1057
portion of a turnpike project that is part of the Ohio turnpike 1058
system or a district located in the vicinity of a turnpike project 1059
that is part of the Ohio turnpike system. 1060

(2) The members appointed by the governor shall be residents 1061
of the state, shall have been qualified electors therein for a 1062
period of at least five years next preceding their appointment, 1063
~~and~~. In making the appointments, the governor may appoint persons 1064
who reside in different geographic areas of the state, taking into 1065
consideration the various turnpike and infrastructure projects in 1066
the state. Members appointed to the commission prior to July 1, 1067
2013, shall serve terms of eight years commencing on the first day 1068
of July and ending on the thirtieth day of June. Thereafter, 1069
members appointed by the governor shall serve terms of three years 1070
commencing on the first day of July and ending on the thirtieth 1071
day of June. Those members appointed by the president of the 1072
senate or the speaker of the house of representatives shall serve 1073

a term of the remainder of the general assembly during which the senator or representative is appointed. Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. If a commission member dies or resigns, or if a senator or representative who is a member of the commission ceases to be a senator or representative, or if an ex officio member ceases to hold the applicable office, the vacancy shall be filled in the same manner as provided in division (B)(1) of this section. Any member who fills a vacancy occurring prior to the end of the term for which the member's predecessor was appointed shall, if appointed by the governor, hold office for the remainder of such term or, if appointed by the president of the senate or the speaker of the house of representatives, shall hold office for the remainder of the term or for a shorter period of time as determined by the president or the speaker. Any member appointed by the governor shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A member of the commission is eligible for reappointment. Each member of the commission appointed by the governor, before entering upon the member's duties, shall take an oath as provided by Section 7 of Article XV, Ohio Constitution. The governor, the president of the senate, or the speaker of the house of representatives, may at any time remove their respective appointees to the commission for misfeasance, nonfeasance, or malfeasance in office.

(3)(a) A member of the commission who is appointed by the president of the senate or the speaker of the house of representatives shall not participate in any vote of the commission. Serving as an appointed member of the commission under divisions (B)(1)(c), (1)(d), or (2) of this section does not constitute grounds for resignation from the senate or the house of representatives under section 101.26 of the Revised Code.

(b) The director of budget and management ~~and the director of~~ 1107
~~development~~ shall not participate in any vote of the commission. 1108

(C) The voting members of the commission shall elect one of 1109
the ~~appointed~~ voting members as chairperson and another as 1110
vice-chairperson, and shall appoint a secretary-treasurer who need 1111
not be a member of the commission. ~~Three~~ Four of the voting 1112
members of the commission constitute a quorum, and the affirmative 1113
vote of ~~three~~ four voting members is necessary for any action 1114
taken by the commission. No vacancy in the membership of the 1115
commission impairs the rights of a quorum to exercise all the 1116
rights and perform all the duties of the commission. 1117

(D) Each member of the commission appointed by the governor 1118
shall give a surety bond to the commission in the penal sum of 1119
twenty-five thousand dollars and the secretary-treasurer shall 1120
give such a bond in at least the penal sum of fifty thousand 1121
dollars. The commission may require any of its officers or 1122
employees to file surety bonds including a blanket bond as 1123
provided in section 3.06 of the Revised Code. Each such bond shall 1124
be in favor of the commission and shall be conditioned upon the 1125
faithful performance of the duties of the office, executed by a 1126
surety company authorized to transact business in this state, 1127
approved by the governor, and filed in the office of the secretary 1128
of state. The costs of the surety bonds shall be paid or 1129
reimbursed by the commission from revenues. Each member of the 1130
commission appointed by the governor shall receive an annual 1131
salary of five thousand dollars, payable in monthly installments. 1132
Each member shall be reimbursed for the member's actual expenses 1133
necessarily incurred in the performance of the member's duties. 1134
All costs and expenses incurred by the commission in carrying out 1135
this chapter shall be payable solely from revenues and state 1136
taxes, and no liability or obligation shall be incurred by the 1137
commission beyond the extent to which revenues have been provided 1138

for pursuant to this chapter. 1139

Sec. 5537.03. In order to remove present and anticipated 1140
handicaps and potential hazards on the congested highways in this 1141
state, to facilitate vehicular traffic throughout the state, to 1142
finance infrastructure projects that enhance mobility and economic 1143
development in Ohio, to promote the agricultural, commercial, 1144
recreational, tourism, and industrial development of the state, 1145
and to provide for the general welfare by the construction, 1146
improvement, and maintenance of modern express highways embodying 1147
safety devices, including without limitation center divisions, 1148
ample shoulder widths, long sight distances, multiple lanes in each 1149
direction, and grade separations at intersections with other 1150
public roads and railroads, the Ohio turnpike and infrastructure 1151
commission, ~~subject~~ may do the following: 1152

(A) Subject to section 5537.26 of the Revised Code, ~~may~~ 1153
construct, maintain, repair, and operate a system of turnpike 1154
projects at locations that are reviewed by the turnpike 1155
legislative review committee and approved by the governor, and in 1156
accordance with alignment and design standards that are approved 1157
by the director of transportation, and issue revenue bonds of this 1158
state, payable solely from pledged revenues, to pay the cost of 1159
those projects. The turnpikes and turnpike projects authorized by 1160
this chapter are hereby or shall be made part of the Ohio turnpike 1161
system. 1162

(B) Provide the infrastructure funds to pay the cost or a 1163
portion of the cost of infrastructure projects as recommended by 1164
the director of transportation pursuant to a determination made by 1165
the commission based on criteria set forth in rules adopted by the 1166
commission under section 5537.18 of the Revised Code. A 1167
determination by the commission to provide infrastructure funds 1168
for an infrastructure project shall be conclusive and 1169

incontestable. 1170

Sec. 5537.04. (A) The Ohio turnpike and infrastructure 1171
commission may do any of the following: 1172

(1) Adopt bylaws for the regulation of its affairs and the 1173
conduct of its business; 1174

(2) Adopt an official seal, which shall not be the great seal 1175
of the state and which need not be in compliance with section 5.10 1176
of the Revised Code; 1177

(3) Maintain a principal office and suboffices at such places 1178
within the state as it designates; 1179

(4) Sue With respect to the Ohio turnpike system and turnpike 1180
projects, sue and be sued in its own name, plead and be impleaded, 1181
provided any actions against the commission shall be brought in 1182
the court of common pleas of the county in which the principal 1183
office of the commission is located, or in the court of common 1184
pleas of the county in which the cause of action arose if that 1185
county is located within this state, and all summonses, 1186
exceptions, and notices of every kind shall be served on the 1187
commission by leaving a copy thereof at its principal office with 1188
the secretary-treasurer or executive director of the commission; 1189

(5) With respect to infrastructure projects only, sue and be 1190
sued in its own name, plead and be impleaded, provided any actions 1191
against the commission shall be brought in the court of common 1192
pleas of Franklin county, and all summonses, exceptions, and 1193
notices of every kind shall be served on the commission by leaving 1194
a copy thereof at its principal office with the 1195
secretary-treasurer or executive director of the commission. 1196

(6) Construct, maintain, repair, police, and operate the 1197
turnpike system, and establish rules for the use of any turnpike 1198
project; 1199

~~(6)~~(7) Issue revenue bonds of the state, payable solely from 1200
pledged revenues, as provided in this chapter, for the purpose of 1201
paying any part of the cost of constructing any one or more 1202
turnpike projects or infrastructure projects; 1203

~~(7)~~(8) Fix, and revise from time to time, and charge and 1204
collect tolls by any method approved by the commission, including, 1205
but not limited to, manual methods or through electronic 1206
technology accepted within the tolling industry; 1207

~~(8)~~(9) Acquire, hold, and dispose of property in the exercise 1208
of its powers and the performance of its duties under this 1209
chapter; 1210

~~(9)~~(10) Designate the locations and establish, limit, and 1211
control such points of ingress to and egress from each turnpike 1212
project as are necessary or desirable in the judgment of the 1213
commission and of the director of transportation to ensure the 1214
proper operation and maintenance of that turnpike project, and 1215
prohibit entrance to such a turnpike project from any point not so 1216
designated; 1217

~~(10)~~(11) Make and enter into all contracts and agreements 1218
necessary or incidental to the performance of its duties and the 1219
execution of its powers under this chapter, including 1220
participation in a multi-jurisdiction electronic toll collection 1221
agreement and collection or remittance of tolls, fees, or other 1222
charges to or from entities or agencies that participate in such 1223
an agreement; 1224

~~(11)~~(12) Employ or retain or contract for the services of 1225
consulting engineers, superintendents, managers, and any other 1226
engineers, construction and accounting experts, financial 1227
advisers, trustees, marketing, remarketing, and administrative 1228
agents, attorneys, and other employees, independent contractors, 1229
or agents that are necessary in its judgment and fix their 1230

compensation, provided all such expenses shall be payable solely 1231
from the proceeds of bonds or from revenues of the Ohio turnpike 1232
system; 1233

~~(12)~~(13) Receive and accept from any federal agency, subject 1234
to the approval of the governor, and from any other governmental 1235
agency grants for or in aid of the construction, reconstruction, 1236
repair, renovation, maintenance, or operation of any turnpike 1237
project, and receive and accept aid or contributions from any 1238
source or person of money, property, labor, or other things of 1239
value, to be held, used, and applied only for the purposes for 1240
which such grants and contributions are made; 1241

~~(13)~~(14) Provide coverage for its employees under Chapters 1242
4123. and 4141. of the Revised Code; 1243

~~(14)~~(15) Fix and revise by rule, from time to time, such 1244
permit fees, processing fees, or administrative charges for the 1245
prepayment, deferred payment, or nonpayment of tolls and use of 1246
electronic tolling equipment or other commission property; 1247

(16) Adopt rules for the issuance of citations either by a 1248
policing authority or through administrative means to individuals 1249
or corporations that evade the payment of tolls established for 1250
the use of any turnpike project; 1251

(17) Approve funding and authorize agreements with the 1252
department of transportation for the funding of infrastructure 1253
projects recommended by the director of transportation pursuant to 1254
the criteria established by rule under section 5537.18 of the 1255
Revised Code. 1256

(B) The commission may do all acts necessary or proper to 1257
carry out the powers expressly granted in this chapter. 1258

Sec. 5537.05. (A) The Ohio turnpike and infrastructure 1259
commission may construct grade separations at intersections of any 1260

turnpike project with public roads and railroads, and change and 1261
adjust the lines and grades of those roads and railroads, and of 1262
public utility facilities, which change and adjustment of lines 1263
and grades of those roads shall be subject to the approval of the 1264
governmental agency having jurisdiction over the road, so as to 1265
accommodate them to the design of the grade separation. The cost 1266
of the grade separation and any damage incurred in changing and 1267
adjusting the lines and grades of roads, railroads, and public 1268
utility facilities shall be ascertained and paid by the commission 1269
as a part of the cost of the turnpike project or from revenues or 1270
state taxes. 1271

(1) If the commission finds it necessary to change the 1272
location of any portion of any public road, railroad, or public 1273
utility facility, it shall cause the same to be reconstructed at 1274
the location the governmental agency having jurisdiction over such 1275
road, railroad, or public utility facility considers most 1276
favorable. The construction shall be of substantially the same 1277
type and in as good condition as the original road, railroad, or 1278
public utility facility. The cost of the reconstruction, 1279
relocation, or removal and any damage incurred in changing the 1280
location shall be ascertained and paid by the commission as a part 1281
of the cost of the turnpike project or from revenues or state 1282
taxes. 1283

(2) The commission may petition the board of county 1284
commissioners of the county in which is situated any public road 1285
or part thereof affected by the location therein of any turnpike 1286
project, for the vacation or relocation of the road or any part 1287
thereof, in the same manner and with the same force and effect as 1288
is given to the director of transportation pursuant to sections 1289
5553.04 to 5553.11 of the Revised Code. 1290

(B) The commission and its authorized agents and employees, 1291
after proper notice, may enter upon any lands, waters, and 1292

premises in the state for the purpose of making surveys, 1293
soundings, drillings, and examinations that are necessary or 1294
proper for the purposes of this chapter, and the entry shall not 1295
be deemed a trespass, nor shall an entry for those purposes be 1296
deemed an entry under any appropriation proceedings which may then 1297
be pending, provided that before entering upon the premises of any 1298
railroad notice shall be given to the superintendent of the 1299
railroad involved at least five days in advance of entry, and 1300
provided that no survey, sounding, drilling, and examination shall 1301
be made between the rails or so close to a railroad track as would 1302
render the track unusable. The commission shall make reimbursement 1303
for any actual damage resulting to such lands, waters, and 1304
premises and to private property located in, on, along, over, or 1305
under such lands, waters, and premises, as a result of such 1306
activities. The state, subject to the approval of the governor, 1307
hereby consents to the use of all lands owned by it, including 1308
lands lying under water, that are necessary or proper for the 1309
construction, maintenance, or operation of any turnpike project, 1310
provided adequate consideration is provided for the use. 1311

(C) The commission may make reasonable provisions or rules 1312
for the installation, construction, maintenance, repair, renewal, 1313
relocation, and removal of public utility facilities in, on, 1314
along, over, or under any turnpike project. Whenever the 1315
commission determines that it is necessary that any public utility 1316
facilities located in, on, along, over, or under any turnpike 1317
project should be relocated in or removed from the turnpike 1318
project, the public utility owning or operating the facilities 1319
shall relocate or remove them in accordance with the order of the 1320
commission. Except as otherwise provided in any license or other 1321
agreement with the commission, the cost and expenses of such 1322
relocation or removal, including the cost of installing the 1323
facilities in a new location, the cost of any lands, or any rights 1324
or interests in lands, and any other rights, acquired to 1325

accomplish the relocation or removal, shall be ascertained and 1326
paid by the commission as part of the cost of the turnpike project 1327
or from revenues of the Ohio turnpike system. In case of any such 1328
relocation or removal of facilities, the public utility owning or 1329
operating them and its successors or assigns may maintain and 1330
operate the facilities, with the necessary appurtenances, in the 1331
new location, for as long a period, and upon the same terms, as it 1332
had the right to maintain and operate the facilities in their 1333
former location. 1334

(D) The commission is subject to Chapters 1515., 6131., 1335
6133., 6135., and 6137. of the Revised Code and shall pay any 1336
assessments levied under those chapters for an improvement or 1337
maintenance of an improvement on land under the control or 1338
ownership of the commission. 1339

Sec. 5537.051. (A)(1) In any county that as of January 1, 1340
2011, had closed one or more roads as a result of grade separation 1341
failure at intersections of a turnpike project with a county or 1342
township road, the Ohio turnpike and infrastructure commission is 1343
responsible for the major maintenance and repair and replacement 1344
of failed grade separations. The governmental entity with 1345
jurisdiction over the county or township road is responsible for 1346
routine maintenance of such failed grade separations. 1347

(2) This section does not apply to any grade separation at 1348
intersections of a turnpike project with a county or township road 1349
except as described in division (A)(1) of this section. 1350

(3) Major maintenance and repair and replacement of 1351
aforementioned failed grade separations shall commence not later 1352
than July 1, 2011, and be completed before December 31, 2014. 1353

(B) As used in this section: 1354

(1) "Major maintenance and repair and replacement" relates to 1355

all elements constructed as part of or required for a grade 1356
separation, including bridges, pile, foundations, substructures, 1357
abutments, piers, superstructures, approach slabs, slopes, 1358
embankments, fences, and appurtenances. 1359

(2) "Routine maintenance" includes, without limitation, 1360
clearing debris, sweeping, snow and ice removal, wearing surface 1361
improvements, marking for traffic control, box culverts, drainage 1362
facilities including headwalls and underdrains, inlets, catch 1363
basins and grates, guardrails, minor and emergency repairs to 1364
railing and appurtenances, and emergency patching. 1365

Sec. 5537.06. (A) The Ohio turnpike and infrastructure 1366
commission may acquire by purchase, lease, lease-purchase, lease 1367
with option to purchase, appropriation, or otherwise and in such 1368
manner and for such consideration as it considers proper, any 1369
public or private property necessary, convenient, or proper for 1370
the construction, maintenance, or efficient operation of the Ohio 1371
turnpike system. The commission may pledge net revenues, to the 1372
extent permitted by this chapter with respect to bonds, to secure 1373
payments to be made by the commission under any such lease, 1374
lease-purchase agreement, or lease with option to purchase. Title 1375
to personal property, and interests less than a fee in real 1376
property, shall be held in the name of the commission. Title to 1377
real property held in fee shall be held in the name of the state 1378
for the use of the commission. In any proceedings for 1379
appropriation under this section, the procedure to be followed 1380
shall be in accordance with the procedure provided in sections 1381
163.01 to 163.22 of the Revised Code, including division (B) of 1382
section 163.06 of the Revised Code notwithstanding the limitation 1383
in that division of its applicability to roads open to the public 1384
without charge. Except as otherwise agreed upon by the owner, full 1385
compensation shall be paid for public property so taken. 1386

(B) This section does not authorize the commission to take or 1387
disturb property or facilities belonging to any public utility or 1388
to a common carrier engaged in interstate commerce, which property 1389
or facilities are required for the proper and convenient operation 1390
of the public utility or common carrier, unless provision is made 1391
for the restoration, relocation, replication, or duplication of 1392
the property or facilities elsewhere at the sole cost of the 1393
commission. 1394

(C) Disposition of real property shall be by the commission 1395
in the manner and for the consideration it determines if to a 1396
state agency or other governmental agency, and otherwise in the 1397
manner provided in section 5501.45 of the Revised Code for the 1398
disposition of property by the director of transportation. 1399
Disposition of personal property shall be in the manner and for 1400
the consideration the commission determines. 1401

(D) Any instrument by which real property is acquired 1402
pursuant to this section shall identify the agency of the state 1403
that has the use and benefit of the real property as specified in 1404
section 5301.012 of the Revised Code. 1405

Sec. 5537.07. (A) When the cost to the Ohio turnpike and 1406
infrastructure commission under any contract with a person other 1407
than a governmental agency involves an expenditure of more than 1408
fifty thousand dollars, the commission shall make a written 1409
contract with the lowest responsive and responsible bidder in 1410
accordance with section 9.312 of the Revised Code after 1411
advertisement for not less than two consecutive weeks in a 1412
newspaper of general circulation in Franklin county, and in such 1413
other publications as the commission determines, which notice 1414
shall state the general character of the work and the general 1415
character of the materials to be furnished, the place where plans 1416
and specifications therefor may be examined, and the time and 1417

place of receiving bids. The commission may require that the cost 1418
estimate for the construction, demolition, alteration, repair, 1419
improvement, renovation, or reconstruction of roadways and bridges 1420
for which the commission is required to receive bids be kept 1421
confidential and remain confidential until after all bids for the 1422
public improvement have been received or the deadline for 1423
receiving bids has passed. Thereafter, and before opening the bids 1424
submitted for the roadways and bridges, the commission shall make 1425
the cost estimate public knowledge by reading the cost estimate in 1426
a public place. The commission may reject any and all bids. The 1427
requirements of this division do not apply to contracts for the 1428
acquisition of real property or compensation for professional or 1429
other personal services. 1430

(B) Each bid for a contract for construction, demolition, 1431
alteration, repair, improvement, renovation, or reconstruction 1432
shall contain the full name of every person interested in it and 1433
shall meet the requirements of section 153.54 of the Revised Code. 1434

(C) Other than for a contract referred to in division (B) of 1435
this section, each bid for a contract that involves an expenditure 1436
in excess of one hundred fifty thousand dollars or any contract 1437
with a service facility operator shall contain the full name of 1438
every person interested in it and shall be accompanied by a 1439
sufficient bond or certified check on a solvent bank that if the 1440
bid is accepted a contract will be entered into and the 1441
performance of its proposal secured. 1442

(D) Other than a contract referred to in division (B) of this 1443
section, a bond with good and sufficient surety, in a form as 1444
prescribed and approved by the commission, shall be required of 1445
every contractor awarded a contract that involves an expenditure 1446
in excess of one hundred fifty thousand dollars or any contract 1447
with a service facility operator. The bond shall be in an amount 1448
equal to at least fifty per cent of the contract price and shall 1449

be conditioned upon the faithful performance of the contract. 1450

(E) Notwithstanding any other provisions of this section, the 1451
commission may establish a program to expedite special turnpike 1452
projects by combining the design and construction elements of any 1453
public improvement project into a single contract. The commission 1454
shall prepare and distribute a scope of work document upon which 1455
the bidders shall base their bids. At a minimum, bidders shall 1456
meet the requirements of section 4733.161 of the Revised Code. 1457
Except in regard to those requirements relating to providing 1458
plans, the commission shall award contracts following the 1459
requirements set forth in divisions (A), (B), (C), and (D) of this 1460
section. 1461

Sec. 5537.08. (A) The Ohio turnpike and infrastructure 1462
commission may provide by resolution for the issuance, at one time 1463
or from time to time, of revenue bonds of the state for the 1464
purpose of paying all or any part of the cost of any one or more 1465
turnpike projects or infrastructure projects. The bond service 1466
charges shall be payable solely from pledged revenues pledged for 1467
such payment pursuant to the applicable bond proceedings. The 1468
bonds of each issue shall be dated, shall bear interest at a rate 1469
or rates or at variable rates, and shall mature or be payable at 1470
such time or times, with a final maturity not to exceed forty 1471
years from their date or dates, all as determined by the 1472
commission in the bond proceedings. The commission shall determine 1473
the form of the bonds, including any interest coupons to be 1474
attached thereto, and shall fix the denomination or denominations 1475
of the bonds and the place or places of payment of bond service 1476
charges. 1477

(B) The bonds shall be signed by the chairperson or 1478
vice-chairperson of the commission or by the facsimile signature 1479
of that officer, the official seal of the commission or a 1480

facsimile thereof shall be affixed thereto or printed thereon and 1481
attested by the secretary-treasurer of the commission, which may 1482
be by facsimile signature, and any coupons attached thereto shall 1483
bear the facsimile signature of the chairperson or 1484
vice-chairperson of the commission. In case any officer whose 1485
signature, or a facsimile of whose signature, appears on any bonds 1486
or coupons ceases to be such officer before delivery of bonds, 1487
such signature or facsimile shall nevertheless be valid and 1488
sufficient for all purposes the same as if the officer had 1489
remained in office until such delivery. 1490

(C) Subject to the bond proceedings and provisions for 1491
registration, the bonds shall have all the qualities and incidents 1492
of negotiable instruments under Title XIII of the Revised Code. 1493
The bonds may be issued in such form or forms as the commission 1494
determines, including without limitation coupon, book entry, and 1495
fully registered form, and provision may be made for the 1496
registration of any coupon bonds as to principal alone and also as 1497
to both principal and interest, and for the exchange of bonds 1498
between forms. The commission may sell such bonds by competitive 1499
bid on the best bid after advertisement or request for bids or by 1500
private sale in the manner, and for the price, it determines to be 1501
for the best interest of the state. ~~The determination of the 1502
commission as to the manner of sale, by competitive bid or by 1503
private sale, shall be approved by the controlling board.~~ 1504

(D) The proceeds of the bonds of each issue shall be used 1505
solely for the payment of the costs of the turnpike project or 1506
projects for which such bonds were issued, and or for the payment 1507
of the costs of the infrastructure project or projects as approved 1508
by the commission under section 5537.18 of the Revised Code. The 1509
proceeds shall be disbursed in such manner and under such 1510
restrictions as the commission provides in the applicable bond 1511
proceedings. 1512

(E) Prior to the preparation of definitive bonds, the 1513
commission may, under like restrictions, issue interim receipts or 1514
temporary bonds or bond anticipation notes, with or without 1515
coupons, exchangeable for definitive bonds when such bonds have 1516
been executed and are available for delivery. The commission may 1517
provide for the replacement of any mutilated, stolen, destroyed, 1518
or lost bonds. Bonds may be issued by the commission under this 1519
chapter without obtaining the consent of any state agency, and 1520
without any other proceedings or the happening of any other 1521
conditions or things than those proceedings, conditions, or things 1522
that are specifically required by this chapter or those 1523
proceedings. 1524

(F) Sections 9.98 to 9.983 of the Revised Code apply to the 1525
bonds. 1526

(G) The bond proceedings shall provide, subject to the 1527
provisions of any other applicable bond proceedings, for the 1528
pledge to the payment of bond service charges and of any costs of 1529
or relating to credit enhancement facilities of all, or such part 1530
as the commission may determine, of the pledged revenues and the 1531
applicable special fund or funds, which pledges may be made to 1532
secure the bonds on a parity with bonds theretofore or thereafter 1533
issued if and to the extent provided in the bond proceedings. 1534
Every pledge, and every covenant and agreement with respect 1535
thereto, made in the bond proceedings may in the bond proceedings 1536
be extended to the benefit of the owners and holders of bonds and 1537
to any trustee and any person providing a credit enhancement 1538
facility for those bonds, for the further security for the payment 1539
of the bond service charges and credit enhancement facility costs. 1540

(H) The bond proceedings may contain additional provisions as 1541
to: 1542

(1) The redemption of bonds prior to maturity at the option 1543
of the commission or of the bondholders or upon the occurrence of 1544

certain stated conditions, and at such price or prices and under	1545
such terms and conditions as are provided in the bond proceedings;	1546
(2) Other terms of the bonds;	1547
(3) Limitations on the issuance of additional bonds;	1548
(4) The terms of any trust agreement securing the bonds or	1549
under which the same may be issued;	1550
(5) Any or every provision of the bond proceedings being	1551
binding upon the commission and state agencies, or other person as	1552
may from time to time have the authority under law to take such	1553
actions as may be necessary to perform all or any part of the duty	1554
required by such provision;	1555
(6) Any provision that may be made in a trust agreement;	1556
(7) Any other or additional agreements with the holders of	1557
the bonds, or the trustee therefor, relating to the bonds or the	1558
security for the bonds, including agreements for credit	1559
enhancement facilities.	1560
(I) Any holder of bonds or a trustee under the bond	1561
proceedings, except to the extent that the holder's or trustee's	1562
rights are restricted by the bond proceedings, may by any suitable	1563
form of legal proceedings, protect and enforce any rights under	1564
the laws of this state or granted by the bond proceedings. Those	1565
rights include the right to compel the performance of all duties	1566
of the commission and state agencies required by this chapter or	1567
the bond proceedings; to enjoin unlawful activities; and in the	1568
event of default with respect to the payment of any bond service	1569
charges on any bonds or in the performance of any covenant or	1570
agreement on the part of the commission contained in the bond	1571
proceedings, to apply to a court having jurisdiction of the cause	1572
to appoint a receiver to receive and administer the revenues and	1573
the pledged revenues which are pledged to the payment of the bond	1574
service charges on such bonds or which are the subject of the	1575

covenant or agreement, with full power to pay, and to provide for 1576
payment of, bond service charges on such bonds, and with such 1577
powers, subject to the direction of the court, as are accorded 1578
receivers in general equity cases, excluding any power to pledge 1579
additional revenues or receipts or other income, funds, or moneys 1580
of the commission or state agencies to the payment of such bond 1581
service charges and excluding the power to take possession of, 1582
mortgage, or cause the sale or otherwise dispose of any turnpike 1583
project or other property of the commission. 1584

(J) Each duty of the commission and the commission's officers 1585
and employees, undertaken pursuant to the bond proceedings, is 1586
hereby established as a duty of the commission, and of each such 1587
officer, member, or employee having authority to perform the duty, 1588
specifically enjoined by law resulting from an office, trust, or 1589
station within the meaning of section 2731.01 of the Revised Code. 1590

(K) The commission's officers or employees are not liable in 1591
their personal capacities on any bonds issued by the commission or 1592
any agreements of or with the commission relating to those bonds. 1593

(L) The bonds are lawful investments for banks, savings and 1594
loan associations, credit union share guaranty corporations, trust 1595
companies, trustees, fiduciaries, insurance companies, including 1596
domestic for life and domestic not for life, trustees or other 1597
officers having charge of sinking and bond retirement or other 1598
funds of the state or its political subdivisions and taxing 1599
districts, the commissioners of the sinking fund of the state, the 1600
administrator of workers' compensation, the state teachers 1601
retirement system, the public employees retirement system, the 1602
school employees retirement system, and the Ohio police and fire 1603
pension fund, notwithstanding any other provisions of the Revised 1604
Code or rules adopted pursuant thereto by any state agency with 1605
respect to investments by them, and are also acceptable as 1606
security for the repayment of the deposit of public moneys. 1607

(M) Provision may be made in the applicable bond proceedings 1608
for the establishment of separate accounts in the bond service 1609
fund and for the application of such accounts only to the 1610
specified bond service charges pertinent to such accounts and bond 1611
service fund, and for other accounts therein within the general 1612
purposes of such fund. 1613

(N) The commission may pledge all, or such portion as it 1614
determines, of the pledged revenues to the payment of bond service 1615
charges, and for the establishment and maintenance of any reserves 1616
and special funds, as provided in the bond proceedings, and make 1617
other provisions therein with respect to pledged revenues, 1618
revenues, and net revenues as authorized by this chapter, which 1619
provisions are controlling notwithstanding any other provisions of 1620
law pertaining thereto. 1621

Sec. 5537.09. The Ohio turnpike and infrastructure commission 1622
may provide by resolution for the issuance of revenue bonds of the 1623
state, payable solely from pledged revenues, for the purpose of 1624
refunding any bonds then outstanding, including the payment of 1625
related financing expenses and, if considered advisable by the 1626
commission, for the additional purpose of paying costs of 1627
improvements, extensions, renovations, or enlargements of any 1628
turnpike project or any infrastructure project. The issuance of 1629
refunding bonds, the maturities and other details thereof, the 1630
rights of the holders thereof, and the rights, duties, and 1631
obligations of the commission in respect to such bonds shall be 1632
governed by the provisions of this chapter insofar as they are 1633
applicable and by the applicable bond proceedings. 1634

Sec. 5537.11. (A) The bonds do not constitute a debt, or a 1635
pledge of the faith and credit, of the state or of any political 1636
subdivision of the state. Bond service charges on outstanding 1637
bonds are payable solely from the pledged revenues pledged for 1638

their payment as authorized by this chapter and as provided in the 1639
bond proceedings. All turnpike and infrastructure revenue bonds 1640
shall contain on their face a statement to that effect. 1641

(B) All expenses incurred in carrying out this chapter shall 1642
be payable solely from revenues provided under this chapter and 1643
from state taxes. This chapter does not authorize the Ohio 1644
turnpike and infrastructure commission to incur indebtedness or 1645
liability on behalf of or payable by the state or any political 1646
subdivision of the state. 1647

Sec. 5537.12. (A) In the discretion of the Ohio turnpike and 1648
infrastructure commission any bonds may be secured by a trust 1649
agreement between the commission and a corporate trustee, which 1650
may be any trust company or bank having the powers of a trust 1651
company within or without the state but authorized to exercise 1652
trust powers within this state. 1653

(B) Any trust agreement may pledge or assign the revenues to 1654
be received, but shall not convey or mortgage any turnpike project 1655
or infrastructure project, any part of a turnpike project or 1656
infrastructure project, or any part of the Ohio turnpike system or 1657
the Ohio turnpike and infrastructure system. Any such trust 1658
agreement or other bond proceedings may contain provisions for 1659
protecting and enforcing the rights and remedies of the 1660
bondholders that are reasonable and proper and not in violation of 1661
law, including covenants setting forth the duties of the 1662
commission in relation to the acquisition of property, and the 1663
construction, maintenance, repair, operation, and insurance of the 1664
turnpike project or projects in connection with which the bonds 1665
are authorized, the rates of toll to be charged, and the custody, 1666
safeguarding, and application of all moneys, and provisions for 1667
the employment or retention of the services of consulting 1668
engineers in connection with the construction, maintenance, or 1669

operation of the turnpike project or projects. Any bank or trust 1670
company incorporated under the laws of this state which may act as 1671
depository of the proceeds of bonds or of revenues may furnish 1672
such indemnifying bonds or may pledge such securities as are 1673
required by the commission. Any such trust agreement may set forth 1674
the rights and remedies of the bondholders and of the trustee, may 1675
restrict the individual right of action by bondholders as is 1676
customary in revenue bond trust agreements of public bodies, and 1677
may contain other provisions that the commission considers 1678
reasonable and proper for the security of the bondholders. All 1679
expenses incurred in entering into or carrying out the provisions 1680
of such a trust agreement may be treated as a part of the cost, or 1681
of the cost of the operation, of the turnpike project or projects. 1682

Sec. 5537.13. (A) Subject to section 5537.26 of the Revised 1683
Code, the Ohio turnpike and infrastructure commission may fix, 1684
revise, charge, and collect tolls for each turnpike project, and 1685
contract in the manner provided by this section with any person 1686
desiring the use of any part thereof, including the right-of-way 1687
adjoining the paved portion, for placing thereon telephone, 1688
electric light, or power lines, service facilities, or for any 1689
other purpose, and fix the terms, conditions, rents, and rates of 1690
charge for such use, provided that no toll, charge, or rental may 1691
be made by the commission for placing in, on, along, over, or 1692
under the turnpike project, equipment or public utility facilities 1693
that are necessary to serve service facilities or to interconnect 1694
any public utility facilities. 1695

(B) Contracts for the operation of service facilities shall 1696
be made in writing. Such contracts, except contracts with state 1697
agencies or other governmental agencies, shall be made with the 1698
bidder whose bid is determined by the commission to be the best 1699
bid received, after advertisement for two consecutive weeks in a 1700
newspaper of general circulation in Franklin county, and in other 1701

publications that the commission determines. The notice shall 1702
state the general character of the service facilities operation 1703
proposed, the place where plans and specifications may be 1704
examined, and the time and place of receiving bids. Bids shall 1705
contain the full name of each person interested in them, and shall 1706
be in such form as the commission requires. The commission may 1707
reject any and all bids. All contracts for service facilities 1708
shall be preserved in the principal office of the commission. 1709

(C) Tolls shall be so fixed and adjusted as to provide funds 1710
at least sufficient with other revenues of the Ohio turnpike 1711
system, if any, to pay: 1712

(1) The cost of maintaining, improving, repairing, 1713
constructing, and operating the Ohio turnpike system and its 1714
different parts and sections, and to create and maintain any 1715
reserves for those purposes; 1716

(2) Any unpaid bond service charges on outstanding bonds 1717
payable from pledged revenues as such charges become due and 1718
payable, and to create and maintain any reserves for that purpose. 1719

(D) Tolls are not subject to supervision, approval, or 1720
regulation by any state agency other than the turnpike and 1721
infrastructure commission. 1722

(E) Revenues derived from each turnpike project ~~in connection~~ 1723
~~with which any bonds are outstanding~~ shall be first applied to pay 1724
the cost of maintenance, improvement, repair, and operation and to 1725
provide any reserves therefor that are provided for in the bond 1726
proceedings authorizing the issuance of those outstanding bonds, 1727
and otherwise as provided by the commission, ~~and the balance. The~~ 1728
bond proceedings also shall provide, subject to the provisions of 1729
any other applicable bond proceedings, for the pledge of all, or 1730
such part as the commission may determine of the pledged revenues 1731
~~shall be set aside, at such regular intervals as are provided in~~ 1732

~~the bond proceedings, in a bond service fund, which is hereby~~ 1733
~~pledged to and charged with and the applicable special fund or~~ 1734
~~funds to the payment of the bond service charges on any such~~ 1735
~~outstanding bonds as provided in the applicable, which pledge may~~ 1736
~~be made to secure the bonds senior or subordinate to or on a~~ 1737
~~parity with bonds theretofore or thereafter issued, if and to the~~ 1738
~~extent provided in the~~ bond proceedings. The pledge shall be valid 1739
and binding from the time the pledge is made; the revenues and the 1740
pledged revenues thereafter received by the commission immediately 1741
shall be subject to the lien of the pledge without any physical 1742
delivery thereof or further act, and the lien of the pledge shall 1743
be valid and binding as against all parties having claims of any 1744
kind in tort, contract, or otherwise against the commission, 1745
whether or not those parties have notice thereof. The bond 1746
proceedings by which a pledge is created need not be filed or 1747
recorded except in the records of the commission. The use and 1748
disposition of moneys to the credit of a bond service fund shall 1749
be subject to the applicable bond proceedings. ~~Except as is~~ 1750
~~otherwise provided in such bond proceedings, such a bond service~~ 1751
~~fund shall be a fund for all such bonds, without distinction or~~ 1752
~~priority of one over another.~~ 1753

(F) The proceeds of bonds issued for the payment of the costs 1754
of infrastructure projects, net of the payment of all financing 1755
expenses and deposits into debt service reserves or other special 1756
funds as may be required in the applicable bond proceedings, shall 1757
be deposited to the infrastructure fund or funds and shall be 1758
exclusively used to pay the cost of infrastructure projects 1759
approved by the commission, except that income earned by the 1760
infrastructure fund may be used by the commission towards the 1761
payment of bond service charges. 1762

Sec. 5537.14. All moneys received by the Ohio turnpike and 1763
infrastructure commission under this chapter, whether as proceeds 1764

from the sale of bonds or as revenues, are to be held and applied 1765
solely as provided in this chapter and in any applicable bond 1766
proceedings. Such moneys shall be kept in depositories as selected 1767
by the commission in the manner provided in sections 135.01 to 1768
135.21 of the Revised Code, insofar as such sections are 1769
applicable, and the deposits shall be secured as provided in 1770
sections 135.01 to 135.21 of the Revised Code. The bond 1771
proceedings shall provide that any officer to whom, or any bank or 1772
trust company to which, revenues or pledged revenues are paid 1773
shall act as trustee of such moneys and hold and apply them for 1774
the purposes thereof, subject to applicable provisions of this 1775
chapter and the bond proceedings. 1776

Sec. 5537.15. Any holder of bonds issued and outstanding 1777
under this chapter, or any of the coupons appertaining thereto, 1778
and the trustee under any trust agreement, except to the extent 1779
the rights given by this chapter may be restricted or modified by 1780
the bond proceedings, may by suit, action, mandamus, or other 1781
proceedings, protect and enforce any rights under the laws of the 1782
state or granted under this chapter or the bond proceedings, and 1783
may enforce and compel the performance of all duties required by 1784
this chapter or the bond proceedings, to be performed by the Ohio 1785
turnpike and infrastructure commission or any officer of the 1786
commission, including the fixing, charging, collecting, and 1787
application of tolls. 1788

Sec. 5537.16. (A) The Ohio turnpike and infrastructure 1789
commission may adopt such bylaws and rules as it considers 1790
advisable for the control and regulation of traffic on any 1791
turnpike project, for the protection and preservation of property 1792
under its jurisdiction and control, for the maintenance and 1793
preservation of good order within the property under its control, 1794
and for the purpose of establishing owner or operator liability 1795

for failure to comply with toll collection rules. The rules of the 1796
commission with respect to the speed, use of special engine 1797
brakes, axle loads, vehicle loads, and vehicle dimensions of 1798
vehicles on turnpike projects, including the issuance of a special 1799
permit by the commission to allow the operation on any turnpike 1800
project of a motor vehicle transporting two or fewer steel coils, 1801
shall apply notwithstanding sections 4511.21 to 4511.24, 4513.34, 1802
and Chapter 5577. of the Revised Code. Such bylaws and rules shall 1803
be published in a newspaper of general circulation in Franklin 1804
county, and in such other manner as the commission prescribes. 1805

(B) Such rules shall provide that public police officers 1806
shall be afforded ready access, while in the performance of their 1807
official duty, to all property under the jurisdiction of the 1808
commission and without the payment of tolls. 1809

(C) No person shall violate any such bylaws or rules of the 1810
commission. 1811

(D)(1) All fines collected for the violation of applicable 1812
laws of the state and the bylaws and rules of the commission or 1813
moneys arising from bonds forfeited for such violation shall be 1814
disposed of in accordance with section 5503.04 of the Revised 1815
Code. 1816

(2) All fees or charges assessed by the commission against an 1817
owner or operator of a vehicle as a civil violation for failure to 1818
comply with toll collection or toll evasion rules shall be 1819
revenues of the commission. 1820

Sec. 5537.17. (A) Each turnpike project open to traffic shall 1821
be maintained and kept in good condition and repair by the Ohio 1822
turnpike and infrastructure commission. The Ohio turnpike system 1823
shall be policed and operated by a force of police, toll 1824
collectors, and other employees and agents that the commission 1825
employs or contracts for. 1826

(B) All public or private property damaged or destroyed in 1827
carrying out the powers granted by this chapter shall be restored 1828
or repaired and placed in its original condition, as nearly as 1829
practicable, or adequate compensation or consideration made 1830
therefor out of moneys provided under this chapter. 1831

(C) All governmental agencies may lease, lend, grant, or 1832
convey to the commission at its request, upon terms that the 1833
proper authorities of the governmental agencies consider 1834
reasonable and fair and without the necessity for an 1835
advertisement, order of court, or other action or formality, other 1836
than the regular and formal action of the authorities concerned, 1837
any property that is necessary or convenient to the effectuation 1838
of the purposes of the commission, including public roads and 1839
other property already devoted to public use. 1840

(D) Each bridge constituting part of a turnpike project shall 1841
be inspected at least once each year by a professional engineer 1842
employed or retained by the commission. 1843

(E) On or before the first day of July in each year, the 1844
commission shall make an annual report of its activities for the 1845
preceding calendar year to the governor and the general assembly. 1846
Each such report shall set forth a complete operating and 1847
financial statement covering the commission's operations and 1848
funding of any turnpike projects and infrastructure projects 1849
during the year. The commission shall cause an audit of its books 1850
and accounts to be made at least once each year by certified 1851
public accountants, and the cost thereof may be treated as a part 1852
of the cost of operations of the commission. The auditor of state, 1853
at least once a year and without previous notice to the 1854
commission, shall audit the accounts and transactions of the 1855
commission. 1856

(F) The commission shall submit a copy of its annual audit by 1857
the auditor of state and its proposed annual budget for each 1858

calendar or fiscal year to the governor, the presiding officers of 1859
each house of the general assembly, the director of budget and 1860
management, and the legislative service commission no later than 1861
the first day of that calendar or fiscal year. 1862

(G) Upon request of the chairperson of the appropriate 1863
standing committee or subcommittee of the senate and house of 1864
representatives that is primarily responsible for considering 1865
transportation budget matters, the commission shall appear at 1866
least one time before each committee or subcommittee during the 1867
period when that committee or subcommittee is considering the 1868
biennial appropriations for the department of transportation and 1869
shall provide testimony outlining its budgetary results for the 1870
last two calendar years, including a comparison of budget and 1871
actual revenue and expenditure amounts. The commission also shall 1872
address its current budget and long-term capital plan. 1873

(H) Not more than sixty nor less than thirty days before 1874
adopting its annual budget, the commission shall submit a copy of 1875
its proposed annual budget to the governor, the presiding officers 1876
of each house of the general assembly, the director of budget and 1877
management, and the legislative service commission. The office of 1878
budget and management shall review the proposed budget and may 1879
provide recommendations to the commission for its consideration. 1880

Sec. 5537.18. (A) The Ohio turnpike and infrastructure 1881
commission shall adopt rules establishing the procedures and 1882
criteria under which the commission may approve an application 1883
received from the director of transportation for infrastructure 1884
project funding under division (B) of this section. The rules 1885
shall require both of the following: 1886

(1) An infrastructure project to have an anticipated economic 1887
or transportation-related impact on the Ohio turnpike and 1888
infrastructure system; 1889

(2) Proceeds from bonds for infrastructure projects issued 1890
under this chapter to be used solely to fund infrastructure 1891
projects with a nexus to the Ohio turnpike. 1892

(B) The director of transportation may submit an application 1893
to the commission for infrastructure project funding. An 1894
application to the commission for infrastructure project funding, 1895
as submitted by the director, shall include only infrastructure 1896
projects that previously have been reviewed and recommended by the 1897
transportation review advisory council pursuant to the selection 1898
process followed by the council under Chapter 5512. of the Revised 1899
Code. 1900

(C) The commission shall evaluate each application for 1901
infrastructure project funding submitted under division (B) of 1902
this section in accordance with the procedures and criteria 1903
established in rules adopted under division (A) of this section. A 1904
determination or approval made under this section is conclusive 1905
and incontestable. 1906

Sec. 5537.19. The Ohio turnpike and infrastructure commission 1907
shall expend such moneys as the commission considers necessary for 1908
studies of any turnpike project or infrastructure project, whether 1909
proposed, under construction, or in operation, and may employ 1910
consulting engineers, traffic engineers, and any other individuals 1911
or firms that the commission considers necessary to properly 1912
implement the studies. The cost of the studies may be paid from 1913
revenues, eligible state and federal grants, state taxes available 1914
to the commission and permitted by law to be spent for such 1915
purposes, or the proceeds of bonds. 1916

Sec. 5537.20. The exercise of the powers granted by this 1917
chapter is in all respects for the benefit of the people of the 1918
state, for the increase of their commerce and prosperity, and for 1919

the improvement of their health and living conditions, and as the 1920
construction, operation, and maintenance of the Ohio turnpike 1921
system by the Ohio turnpike and infrastructure commission 1922
constitute the performance of essential governmental functions, 1923
the commission, except as provided in division (D) of section 1924
5537.05 of the Revised Code, shall not be required to pay any 1925
state or local taxes or assessments upon any turnpike project or 1926
infrastructure project funded by it, or upon revenues or any 1927
property acquired or used by the commission under this chapter, or 1928
upon the income therefrom. The bonds issued under this chapter, 1929
their transfer, and the income therefrom, including any profit 1930
made on the sale thereof, shall at all times be free from taxation 1931
within the state. 1932

Sec. 5537.21. (A) When bond service charges on all 1933
outstanding bonds issued in connection with any turnpike project 1934
have been paid or provision for that payment has been made, as 1935
provided in the applicable bond proceedings, or in the case of a 1936
turnpike project in connection with which no bonds have been 1937
issued, the project shall continue to be or be operated, and 1938
improved and maintained, by the Ohio turnpike and infrastructure 1939
commission as a part of the Ohio turnpike system and as a toll 1940
road, and all revenues received by the commission relating to that 1941
project shall be applied as provided in division (B) of this 1942
section. 1943

(B) Subject to the bond proceedings for bonds relating to any 1944
turnpike project or infrastructure project, tolls relating to a 1945
turnpike project as referred to in division (A) of this section 1946
shall be so fixed and adjusted such that the aggregate of 1947
available revenues relating to that turnpike project ~~and available~~ 1948
~~for the purpose~~ are in amounts ~~to provide moneys~~ at least 1949
sufficient, ~~and those revenues shall be used,~~ to pay the costs 1950
described in division (C)(1) of section 5537.13 of the Revised 1951

Code. 1952

Sec. 5537.22. All final actions of the Ohio turnpike and 1953
infrastructure commission shall be journalized and such journal 1954
shall be open to the inspection of the public at all reasonable 1955
times. 1956

Sec. 5537.24. (A) There is hereby created a turnpike 1957
legislative review committee consisting of six members as follows: 1958

(1) Three members of the senate, no more than two of whom 1959
shall be members of the same political party, one of whom shall be 1960
the chairperson of the committee dealing primarily with highway 1961
matters, one of whom shall be appointed by the president of the 1962
senate, and one of whom shall be appointed by the minority leader 1963
of the senate. 1964

Both the senate member who is appointed by the president of 1965
the senate and the senate member appointed by the minority leader 1966
of the senate shall represent either districts in which is located 1967
or through which passes a portion of a turnpike project that is 1968
part of the Ohio turnpike system or districts located in the 1969
vicinity of a turnpike project that is part of the Ohio turnpike 1970
system. 1971

The president of the senate shall make the president of the 1972
senate's appointment to the committee first, followed by the 1973
minority leader of the senate, and they shall make their 1974
appointments in such a manner that their two appointees represent 1975
districts that are located in different areas of the state. If the 1976
chairperson of the senate committee dealing primarily with highway 1977
matters represents a district in which is located or through which 1978
passes a portion of a turnpike project that is part of the Ohio 1979
turnpike system or a district located in the vicinity of a 1980
turnpike project that is part of the Ohio turnpike system, the 1981

president of the senate and the minority leader of the senate 1982
shall make their appointments in such a manner that their two 1983
appointees and the chairperson of the senate committee dealing 1984
primarily with highway matters all represent districts that are 1985
located in different areas of the state. 1986

(2) Three members of the house of representatives, no more 1987
than two of whom shall be members of the same political party, one 1988
of whom shall be the chairperson of the house of representatives 1989
committee dealing primarily with highway matters, one of whom 1990
shall be appointed by the speaker of the house of representatives, 1991
and one of whom shall be appointed by the minority leader of the 1992
house of representatives. 1993

Both the house of representatives member who is appointed by 1994
the speaker of the house of representatives and the house of 1995
representatives member appointed by the minority leader of the 1996
house of representatives shall represent either districts in which 1997
is located or through which passes a portion of a turnpike project 1998
that is part of the Ohio turnpike system or districts located in 1999
the vicinity of a turnpike project that is part of the Ohio 2000
turnpike system. 2001

The speaker of the house of representatives shall make the 2002
speaker of the house of representative's appointment to the 2003
committee first, followed by the minority leader of the house of 2004
representatives, and they shall make their appointments in such a 2005
manner that their two appointees represent districts that are 2006
located in different areas of the state. If the chairperson of the 2007
house of representatives committee dealing primarily with highway 2008
matters represents a district in which is located or through which 2009
passes a portion of a turnpike project that is part of the Ohio 2010
turnpike system or a district located in the vicinity of a 2011
turnpike project that is part of the Ohio turnpike system, the 2012
speaker of the house of representatives and the minority leader of 2013

the house of representatives shall make their appointments in such 2014
a manner that their two appointees and the chairperson of the 2015
house of representatives committee dealing primarily with highway 2016
matters all represent districts that are located in different 2017
areas of the state. 2018

The chairperson of the house of representatives committee 2019
shall serve as the chairperson of the turnpike legislative review 2020
committee for the year 1996. Thereafter, the chair annually shall 2021
alternate between, first, the chairperson of the senate committee 2022
and then the chairperson of the house of representatives 2023
committee. 2024

(B) Each member of the turnpike legislative review committee 2025
who is a member of the general assembly shall serve a term of the 2026
remainder of the general assembly during which the member is 2027
appointed or is serving as chairperson of the specified senate or 2028
house committee. In the event of the death or resignation of a 2029
committee member who is a member of the general assembly, or in 2030
the event that a member ceases to be a senator or representative, 2031
or in the event that the chairperson of the senate committee 2032
dealing primarily with highway matters or the chairperson of the 2033
house of representatives committee dealing primarily with highway 2034
matters ceases to hold that position, the vacancy shall be filled 2035
through an appointment by the president of the senate or the 2036
speaker of the house of representatives or minority leader of the 2037
senate or house of representatives, as applicable. Any member 2038
appointed to fill a vacancy occurring prior to the end of the term 2039
for which the member's predecessor was appointed shall hold office 2040
for the remainder of the term or for a shorter period of time as 2041
determined by the president or the speaker. A member of the 2042
committee is eligible for reappointment. 2043

(C) The turnpike legislative review committee shall meet at 2044
least quarterly and may meet at the call of its chairperson, or 2045

upon the written request to the chairperson of not fewer than four 2046
members of the committee. Meetings shall be held at sites that are 2047
determined solely by the chairperson of the committee. At each 2048
meeting, the Ohio turnpike and infrastructure commission shall 2049
make a report to the committee on commission matters, including 2050
but not limited to financial and budgetary matters and proposed 2051
and on-going construction, maintenance, repair, and operational 2052
projects of the commission. 2053

The committee, by the affirmative vote of at least four of 2054
its members, may submit written recommendations to the commission, 2055
either at meetings held pursuant to this section or at any other 2056
time, describing new turnpike projects or new interchanges located 2057
on existing projects that the committee believes the commission 2058
should consider constructing. 2059

(D) At least annually the commission shall make a report to 2060
the committee of those infrastructure projects approved and paid 2061
for by the commission. 2062

(E) The members of the turnpike legislative review committee 2063
who are members of the general assembly shall serve without 2064
compensation, but shall be reimbursed by the commission for their 2065
actual and necessary expenses incurred in the discharge of their 2066
official duties as committee members. Serving as a member of the 2067
turnpike legislative review committee does not constitute grounds 2068
for resignation from the senate or house of representatives under 2069
section 101.26 of the Revised Code. 2070

Sec. 5537.25. (A) Notwithstanding any provision of law to the 2071
contrary, the Ohio turnpike and infrastructure commission shall 2072
make no expenditure to engage the services of any person to 2073
influence either of the following: 2074

(1) Administrative actions or decisions of the governor, the 2075
director of any department listed in section 121.02 of the Revised 2076

Code, any member of the staff of any public officer or employee 2077
listed in this section, the president of the United States, or any 2078
federal officer or employee; 2079

(2) Legislation pending in this state or any other state, a 2080
subdivision of this state or any other state, or the federal 2081
government, including the executive approval or veto of any such 2082
pending legislation. 2083

(B) This section shall not be interpreted to prohibit the 2084
commission from designating officers or members of the commission, 2085
or full-time, permanent employees of the commission, to act as 2086
administrative or legislative agents for the commission. 2087

Sec. 5537.26. (A) Except as provided in division (D) of this 2088
section, no increase by the Ohio turnpike and infrastructure 2089
commission in the toll rate structure that is applicable to 2090
vehicles operating on a turnpike project shall become effective 2091
unless the commission complies with the notice and hearing 2092
requirements prescribed in division (B) of this section, and the 2093
commission shall not take any action that expands, has the effect 2094
of expanding, or will to any degree at any time in the future have 2095
the effect of expanding the sphere of responsibility of the 2096
commission beyond the Ohio turnpike, unless the commission 2097
complies with the notice and hearing requirements prescribed in 2098
division (B) of this section. 2099

(B) Not less than ninety days prior to the date on which the 2100
commission votes to increase any part of the toll rate structure 2101
that is applicable to vehicles operating on a turnpike project, 2102
and not less than ninety days prior to the date on which the 2103
commission votes to take an action that expands, has the effect of 2104
expanding, or will to any degree at any time in the future have 2105
the effect of expanding the sphere of responsibility of the 2106
commission beyond the Ohio turnpike, the commission shall do both 2107

of the following: 2108

(1) Send notice to the governor and the presiding officers 2109
and minority leaders of the senate and house of representatives 2110
that details the proposed increase to the toll rate structure or 2111
the expansion of the sphere of responsibility of the commission 2112
beyond the Ohio turnpike, including a description of and a 2113
justification for the increase or expansion; 2114

(2) Commence holding public hearings on the proposed increase 2115
in the toll rate structure or the proposed action. If the 2116
commission is proposing an increase in the toll rate structure 2117
that is applicable to vehicles operating on a turnpike project, it 2118
shall hold not less than three public hearings in three 2119
geographically diverse locations in this state that are in the 2120
immediate vicinity of the affected project. If the commission is 2121
proposing to take an action that expands, has the effect of 2122
expanding, or will to any degree at any time in the future have 2123
the effect of expanding the sphere of responsibility of the 2124
commission beyond the Ohio turnpike, it shall hold not less than 2125
three public hearings in three locations in the immediate vicinity 2126
where the expanded responsibilities would arise. 2127

The commission shall hold the third or, if it holds more than 2128
three hearings, the last hearing of any set of hearings required 2129
to be held under this section not less than thirty days prior to 2130
the date on which it votes to increase part of the toll rate 2131
structure that is applicable to vehicles operating on a turnpike 2132
project or to take an action that expands, has the effect of 2133
expanding, or will to any degree at any time in the future have 2134
the effect of expanding the sphere of responsibility of the 2135
commission beyond the Ohio turnpike. 2136

The commission shall inform the public of all the hearings 2137
required to be held under this section by causing a notice to be 2138
published in a newspaper of general circulation in the county in 2139

which each hearing is to be held, not less than once per week for 2140
two weeks prior to the date of the hearing. 2141

(C) If the commission does not comply with the notice and 2142
hearing requirements contained in division (B) of this section and 2143
votes for an increase in the toll rate structure that is 2144
applicable to vehicles operating on a turnpike project, the 2145
increase in the toll rate structure shall not take effect, any 2146
attempt by the commission to implement the increase in the toll 2147
rate structure is void, and, if necessary, the attorney general 2148
shall file an action in the court of common pleas of the county in 2149
which the principal office of the commission is located to enjoin 2150
the commission from implementing the increase. The commission 2151
shall not implement any increase until it complies with division 2152
(B) of this section. 2153

If the commission does not comply with the notice and hearing 2154
requirements contained in division (B) of this section and votes 2155
to take an action that expands, has the effect of expanding, or 2156
will to any degree at any time in the future have the effect of 2157
expanding the sphere of responsibility of the commission beyond 2158
the Ohio turnpike, the commission shall not take the proposed 2159
action and, if necessary, the attorney general shall file an 2160
action in the court of common pleas of the county in which the 2161
principal office of the commission is located to enjoin the 2162
commission from taking the proposed action. The commission shall 2163
not take the proposed action until it complies with the notice and 2164
hearing requirements prescribed in division (B) of this section. 2165

(D) Divisions (A) to (C) of this section do not apply to any 2166
decrease made to the toll rate structure by the commission. The 2167
commission may implement a temporary decrease in the toll rate 2168
structure only if it does not exceed eighteen months in duration. 2169
Prior to instituting any decrease to the toll rate structure, the 2170
commission shall do both of the following: 2171

(1) Not less than five days prior to any public meeting under 2172
division (D)(2) of this section, send notice to the governor and 2173
the presiding officers and minority leaders of the senate and 2174
house of representatives that details the proposed decrease to the 2175
toll rate structure; 2176

(2) Hold a public meeting to explain to members of the 2177
traveling public the reasons for the upcoming decrease, to inform 2178
them of any benefits and any negative consequences, and to give 2179
them the opportunity to express their opinions as to the relative 2180
merits or drawbacks of each toll decrease. The commission shall 2181
inform the public of the meeting by causing a notice to be 2182
published in newspapers of general circulation in Cuyahoga, Lucas, 2183
Mahoning, Trumbull, Williams, and Summit counties not less than 2184
five days prior to the meeting. The commission shall not be 2185
required to hold any public hearing or meeting upon the expiration 2186
of any temporary decrease in the toll rate structure, so long as 2187
it implements the same toll rate structure that was in effect 2188
immediately prior to the temporary decrease. 2189

(E) As used in this section, "Ohio turnpike" means the toll 2190
freeway that is under the jurisdiction of the commission and runs 2191
in an easterly and westerly direction across the entire northern 2192
portion of this state between its borders with the state of 2193
Pennsylvania in the east and the state of Indiana in the west, and 2194
carries the interstate highway designations of interstate 2195
seventy-six, interstate eighty, and interstate eighty-ninety. 2196

Sec. 5537.27. The Ohio turnpike and infrastructure 2197
commission, the director of transportation or the director's 2198
designee, and another person designated by the governor shall 2199
establish a procedure whereby a political subdivision or other 2200
government agency or agencies may submit a written application to 2201
the commission, requesting the commission to construct and operate 2202

a turnpike project within the boundaries of the subdivision, 2203
agency, or agencies making the request. The procedure shall 2204
include a requirement that the commission send a written reply to 2205
the subdivision, agency, or agencies, explaining the disposition 2206
of the request. The procedure established pursuant to this section 2207
shall not become effective unless it is approved by the commission 2208
and by the director or the director's designee and the designee of 2209
the governor, and shall require submission of the proposed 2210
turnpike project to the turnpike legislative review committee if 2211
the project must be approved by the governor. 2212

Sec. 5537.28. (A) ~~Notwithstanding any other provision of law,~~ 2213
~~on and after the effective date of this section, the Ohio turnpike~~ 2214
~~commission shall not expend any toll revenues that are generated~~ 2215
~~by an existing turnpike project to fund in any manner or to any~~ 2216
~~degree the construction, operation, maintenance, or repair of~~ 2217
~~another turnpike project the location of which must be reviewed by~~ 2218
~~the turnpike legislative review committee and approved by the~~ 2219
~~governor.~~ 2220

In paying the cost of ~~such a~~ any turnpike project, the Ohio 2221
turnpike and infrastructure commission may issue bonds and bond 2222
anticipation notes as permitted by this chapter, and may accept 2223
moneys from any source to pay the cost of any portion of the 2224
turnpike project, including, but not limited to, the federal 2225
government, any department or agency of this state, and any 2226
political subdivision or other government agency. Each such 2227
project shall be constructed, operated, maintained, and repaired 2228
entirely with funds ~~generated by that project or otherwise~~ 2229
specifically acquired for that project or from ~~sources permitted~~ 2230
~~by this chapter~~ excess funds available from any other turnpike 2231
project. 2232

(B) ~~The commission shall not expend any toll revenues~~ 2233

~~generated by the Ohio turnpike to pay any amount of the principal 2234
amount of, or interest due on, any bonds or bond anticipation 2235
notes issued by the commission to pay any portion of the cost of 2236
another turnpike project the location of which must be reviewed by 2237
the turnpike legislative review committee and approved by the 2238
governor. The commission shall not expend any toll revenues 2239
generated by any turnpike project to pay any amount of the 2240
principal amount of, or interest due on, any bonds or bond 2241
anticipation notes issued by the commission to pay any portion of 2242
the cost of a new turnpike project the location of which must be 2243
reviewed by the turnpike legislative review committee and approved 2244
by the governor or the cost of the operation, repair, improvement, 2245
maintenance, or reconstruction of any turnpike project other than 2246
the project that generated those toll revenues. 2247~~

~~(C) As used in this section: 2248~~

~~(1) "Ohio turnpike" has the same meaning as in division (E) 2249
of section 5537.26 of the Revised Code; 2250~~

~~(2) "Another "any turnpike project" does not include 2251
infrastructure improvements on the Ohio turnpike or on connecting 2252
roadways within one mile of an Ohio turnpike interchange projects. 2253
The costs of infrastructure projects approved under section 2254
5537.18 of the Revised Code shall be funded exclusively out of the 2255
infrastructure fund or funds. 2256~~

Sec. 5537.30. (A) Not later than December 31, 2009, the Ohio 2257
turnpike and infrastructure commission shall establish a program 2258
for the placement of business logos for identification purposes on 2259
directional signs within the turnpike right-of-way. 2260

(B)(1) The commission shall establish, and may revise at any 2261
time, a fee for participation in the business logo sign program. 2262
All direct and indirect costs of the business logo sign program 2263
established pursuant to this section shall be fully paid by the 2264

businesses applying for participation in the program. The direct 2265
and indirect costs of the program shall include, but not be 2266
limited to, the cost of capital, directional signs, blanks, posts, 2267
logos, installation, repair, engineering, design, insurance, 2268
removal, replacement, and administration. 2269

(2) Money generated from participating businesses in excess 2270
of the direct and indirect costs and any reasonable profit earned 2271
by a person awarded a contract ~~under division (C) of this section~~ 2272
to operate, maintain, or market the business logo sign program 2273
shall be remitted to the commission. 2274

(3) If the commission operates such a program and does not 2275
contract with a private person to operate it, all money collected 2276
from participating businesses shall be retained by the commission. 2277

~~(C) The commission, in accordance with rules adopted pursuant 2278
to section 111.15 of the Revised Code, may contract with any 2279
private person to operate, maintain, or market the business logo 2280
sign program. The contract may allow for a reasonable profit to be 2281
earned by the successful applicant. In awarding the contract, the 2282
commission shall consider the skill, expertise, prior experience, 2283
and other qualifications of each applicant. 2284~~

~~(D)~~ The program shall permit the business logo signs of a 2285
seller of motor vehicle fuel to include on the seller's signs a 2286
marking or symbol indicating that the seller sells one or more 2287
types of alternative fuel so long as the seller in fact sells that 2288
fuel. As used in this division, "alternative fuel" has the same 2289
meaning as in section 125.831 of the Revised Code. 2290

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the 2291
Revised Code: 2292

(A) "Motor vehicle" means everything on wheels that is 2293
self-propelled, other than by muscular power or power collected 2294

from electric trolley wires and other than vehicles or machinery 2295
not designed for or employed in general highway transportation, 2296
used to transport or propel persons or property over a public 2297
highway. 2298

(B) "Commercial car" means any motor vehicle used for 2299
transporting persons or property, wholly on its own structure on a 2300
public highway. 2301

(C) "Commercial tractor" means any motor vehicle designed and 2302
used to propel or draw a trailer or semi-trailer or both on a 2303
public highway without having any provision for carrying loads 2304
independently of such trailer or semi-trailer. 2305

(D) "Trailer" means everything on wheels that is not 2306
self-propelled, except vehicles or machinery not designed for or 2307
employed in general highway transportation, used for carrying 2308
property wholly on its own structure and for being drawn by a 2309
motor vehicle on a public highway, including any such vehicle when 2310
formed by or operated as a combination of a semi-trailer and a 2311
vehicle of the dolly type such as that commonly known as a trailer 2312
dolly. "Trailer" does not include manufactured homes as defined in 2313
division (C)(4) of section 3781.06 of the Revised Code or mobile 2314
homes as defined in division (O) of section 4501.01 of the Revised 2315
Code. 2316

(E) "Semi-trailer" means everything on wheels that is not 2317
self-propelled, except vehicles or machinery not designed for or 2318
employed in general highway transportation, designed and used for 2319
carrying property on a public highway when being propelled or 2320
drawn by a commercial tractor when part of its own weight or the 2321
weight of its load, or both, rest upon and is carried by a 2322
commercial tractor. 2323

(F) "Commercial tandem" means any commercial car and trailer 2324
or any commercial tractor, semi-trailer, and trailer when fastened 2325

together and used as one unit. 2326

(G) "Commercial tractor combination" means any commercial 2327
tractor and semi-trailer when fastened together and used as one 2328
unit. 2329

(H) "Axle" means two or more load carrying wheels mounted in 2330
a single transverse vertical plane. 2331

(I) "Public highway" means any highway, road, or street 2332
dedicated to public use, including a highway under the control and 2333
jurisdiction of the Ohio turnpike and infrastructure commission 2334
created by the provisions of section 5537.02 of the Revised Code 2335
and land and lots over which the public, either as user or owner, 2336
generally has a right to pass even though such land or lots are 2337
closed temporarily by public authorities for the purpose of 2338
construction, reconstruction, maintenance, or repair. 2339

(J) "Jurisdiction" means a state of the United States, the 2340
District of Columbia, or a province or territory of Canada. 2341

Sec. 5735.05. (A) To provide revenue for maintaining the 2342
state highway system; to widen existing surfaces on such highways; 2343
to resurface such highways; to pay that portion of the 2344
construction cost of a highway project which a county, township, 2345
or municipal corporation normally would be required to pay, but 2346
which the director of transportation, pursuant to division (B) of 2347
section 5531.08 of the Revised Code, determines instead will be 2348
paid from moneys in the highway operating fund; to enable the 2349
counties of the state properly to plan, maintain, and repair their 2350
roads and to pay principal, interest, and charges on bonds and 2351
other obligations issued pursuant to Chapter 133. of the Revised 2352
Code or incurred pursuant to section 5531.09 of the Revised Code 2353
for highway improvements; to enable the municipal corporations to 2354
plan, construct, reconstruct, repave, widen, maintain, repair, 2355
clear, and clean public highways, roads, and streets, and to pay 2356

the principal, interest, and charges on bonds and other 2357
obligations issued pursuant to Chapter 133. of the Revised Code or 2358
incurred pursuant to section 5531.09 of the Revised Code for 2359
highway improvements; to enable the Ohio turnpike and 2360
infrastructure commission to construct, reconstruct, maintain, and 2361
repair turnpike projects; to maintain and repair bridges and 2362
viaducts; to purchase, erect, and maintain street and traffic 2363
signs and markers; to purchase, erect, and maintain traffic lights 2364
and signals; to pay the costs apportioned to the public under 2365
sections 4907.47 and 4907.471 of the Revised Code and to 2366
supplement revenue already available for such purposes; to pay the 2367
costs incurred by the public utilities commission in administering 2368
sections 4907.47 to 4907.476 of the Revised Code; to distribute 2369
equitably among those persons using the privilege of driving motor 2370
vehicles upon such highways and streets the cost of maintaining 2371
and repairing them; to pay the interest, principal, and charges on 2372
highway capital improvements bonds and other obligations issued 2373
pursuant to Section 2m of Article VIII, Ohio Constitution, and 2374
section 151.06 of the Revised Code; to pay the interest, 2375
principal, and charges on highway obligations issued pursuant to 2376
Section 2i of Article VIII, Ohio Constitution, and sections 2377
5528.30 and 5528.31 of the Revised Code; to pay the interest, 2378
principal, and charges on major new state infrastructure bonds and 2379
other obligations of the state issued pursuant to Section 13 of 2380
Article VIII, Ohio Constitution, and section 5531.10 of the 2381
Revised Code; to provide revenue for the purposes of sections 2382
1547.71 to 1547.78 of the Revised Code; and to pay the expenses of 2383
the department of taxation incident to the administration of the 2384
motor fuel laws, a motor fuel excise tax is hereby imposed on all 2385
motor fuel dealers upon receipt of motor fuel within this state at 2386
the rate of two cents plus the cents per gallon rate on each 2387
gallon so received, to be computed in the manner set forth in 2388
section 5735.06 of the Revised Code; provided that no tax is 2389

hereby imposed upon the following transactions: 2390

(1) The sale of dyed diesel fuel by a licensed motor fuel 2391
dealer from a location other than a retail service station 2392
provided the licensed motor fuel dealer places on the face of the 2393
delivery document or invoice, or both if both are used, a 2394
conspicuous notice stating that the fuel is dyed and is not for 2395
taxable use, and that taxable use of that fuel is subject to a 2396
penalty. The tax commissioner, by rule, may provide that any 2397
notice conforming to rules or regulations issued by the United 2398
States department of the treasury or the Internal Revenue Service 2399
is sufficient notice for the purposes of division (A)(1) of this 2400
section. 2401

(2) The sale of K-1 kerosene to a retail service station, 2402
except when placed directly in the fuel supply tank of a motor 2403
vehicle. Such sale shall be rebuttably presumed to not be 2404
distributed or sold for use or used to generate power for the 2405
operation of motor vehicles upon the public highways or upon the 2406
waters within the boundaries of this state. 2407

(3) The sale of motor fuel by a licensed motor fuel dealer to 2408
another licensed motor fuel dealer; 2409

(4) The exportation of motor fuel by a licensed motor fuel 2410
dealer from this state to any other state or foreign country; 2411

(5) The sale of motor fuel to the United States government or 2412
any of its agencies, except such tax as is permitted by it, where 2413
such sale is evidenced by an exemption certificate, in a form 2414
approved by the tax commissioner, executed by the United States 2415
government or an agency thereof certifying that the motor fuel 2416
therein identified has been purchased for the exclusive use of the 2417
United States government or its agency; 2418

(6) The sale of motor fuel that is in the process of 2419
transportation in foreign or interstate commerce, except insofar 2420

as it may be taxable under the Constitution and statutes of the 2421
United States, and except as may be agreed upon in writing by the 2422
dealer and the commissioner; 2423

(7) The sale of motor fuel when sold exclusively for use in 2424
the operation of aircraft, where such sale is evidenced by an 2425
exemption certificate prescribed by the commissioner and executed 2426
by the purchaser certifying that the motor fuel purchased has been 2427
purchased for exclusive use in the operation of aircraft; 2428

(8) The sale for exportation of motor fuel by a licensed 2429
motor fuel dealer to a licensed exporter type A; 2430

(9) The sale for exportation of motor fuel by a licensed 2431
motor fuel dealer to a licensed exporter type B, provided that the 2432
destination state motor fuel tax has been paid or will be accrued 2433
and paid by the licensed motor fuel dealer. 2434

(10) The sale to a consumer of diesel fuel, by a motor fuel 2435
dealer for delivery from a bulk lot vehicle, for consumption in 2436
operating a vessel when the use of such fuel in a vessel would 2437
otherwise qualify for a refund under section 5735.14 of the 2438
Revised Code. 2439

Division (A)(1) of this section does not apply to the sale or 2440
distribution of dyed diesel fuel used to operate a motor vehicle 2441
on the public highways or upon water within the boundaries of this 2442
state by persons permitted under regulations of the United States 2443
department of the treasury or of the Internal Revenue Service to 2444
so use dyed diesel fuel. 2445

(B) The two cent motor fuel tax levied by this section is 2446
also for the purpose of paying the expenses of administering and 2447
enforcing the state law relating to the registration and operation 2448
of motor vehicles. 2449

(C) After the tax provided for by this section on the receipt 2450
of any motor fuel has been paid by the motor fuel dealer, the 2451

motor fuel may thereafter be used, sold, or resold by any person 2452
having lawful title to it, without incurring liability for such 2453
tax. 2454

If a licensed motor fuel dealer sells motor fuel received by 2455
the licensed motor fuel dealer to another licensed motor fuel 2456
dealer, the seller may deduct on the report required by section 2457
5735.06 of the Revised Code the number of gallons so sold for the 2458
month within which the motor fuel was sold or delivered. In this 2459
event the number of gallons is deemed to have been received by the 2460
purchaser, who shall report and pay the tax imposed thereon. 2461

Sec. 5735.23. (A) Out of receipts from the tax levied by 2462
section 5735.05 of the Revised Code, the treasurer of state shall 2463
place to the credit of the tax refund fund established by section 2464
5703.052 of the Revised Code amounts equal to the refunds 2465
certified by the tax commissioner pursuant to sections 5735.13, 2466
5735.14, 5735.141, 5735.142, and 5735.16 of the Revised Code. The 2467
treasurer of state shall then transfer the amount required by 2468
section 5735.051 of the Revised Code to the waterways safety fund, 2469
the amount required by section 4907.472 of the Revised Code to the 2470
grade crossing protection fund, and the amount required by section 2471
5735.053 of the Revised Code to the motor fuel tax administration 2472
fund. 2473

(B) Except as provided in division (D) of this section, each 2474
month the balance of the receipts from the tax levied by section 2475
5735.05 of the Revised Code shall be credited, after receipt by 2476
the treasurer of state of certification from the commissioners of 2477
the sinking fund, as required by section 5528.35 of the Revised 2478
Code, that there are sufficient moneys to the credit of the 2479
highway obligations bond retirement fund to meet in full all 2480
payments of interest, principal, and charges for the retirement of 2481
highway obligations issued pursuant to Section 2i of Article VIII, 2482

Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, as follows:

(1) To the state and local government highway distribution fund, which is hereby created in the state treasury, an amount that is the same percentage of the balance to be credited as that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06 of the Revised Code is of the total tax per gallon determined under divisions (B)(2)(a) and (b) of that section.

(2) After making the distribution to the state and local government highway distribution fund, the remainder shall be credited as follows:

(a) Thirty per cent to the gasoline excise tax fund for distribution pursuant to division (A)(1) of section 5735.27 of the Revised Code;

(b) Twenty-five per cent to the gasoline excise tax fund for distribution pursuant to division (A)(3) of section 5735.27 of the Revised Code;

(c) Except as provided in division (D) of this section, forty-five per cent to the highway operating fund for distribution pursuant to division (B)(1) of section 5735.27 of the Revised Code.

(C) From the balance in the state and local government highway distribution fund on the last day of each month there shall be paid the following amounts:

(1) To the local transportation improvement program fund created by section 164.14 of the Revised Code, an amount equal to a fraction of the balance in the state and local government highway distribution fund, the numerator of which fraction is one and the denominator of which fraction is that portion of the tax per gallon determined under division (B)(2)(a) of section 5735.06

of the Revised Code; 2514

(2) An amount equal to five cents multiplied by the number of 2515
gallons of motor fuel sold at stations operated by the Ohio 2516
turnpike and infrastructure commission, such gallonage to be 2517
certified by the commission to the treasurer of state not later 2518
than the last day of the month following. The funds paid to the 2519
commission pursuant to this section shall be expended for the 2520
construction, reconstruction, maintenance, and repair of turnpike 2521
projects, except that the funds may not be expended for the 2522
construction of new interchanges. The funds also may be expended 2523
for the construction, reconstruction, maintenance, and repair of 2524
those portions of connecting public roads that serve existing 2525
interchanges and are determined by the commission and the director 2526
of transportation to be necessary for the safe merging of traffic 2527
between the turnpike and those public roads. 2528

The remainder of the balance shall be distributed as follows 2529
on the fifteenth day of the following month: 2530

(a) Ten and seven-tenths per cent shall be paid to municipal 2531
corporations for distribution pursuant to division (A)(1) of 2532
section 5735.27 of the Revised Code and may be used for any 2533
purpose for which payments received under that division may be 2534
used. Through July 15, 2005, the sum of two hundred forty-eight 2535
thousand six hundred twenty-five dollars shall be monthly 2536
subtracted from the amount so computed and credited to the highway 2537
operating fund. Beginning August 15, 2005, the sum of seven 2538
hundred forty-five thousand eight hundred seventy-five dollars 2539
shall be monthly subtracted from the amount so computed and 2540
credited to the highway operating fund. 2541

(b) Five per cent shall be paid to townships for distribution 2542
pursuant to division (A)(5) of section 5735.27 of the Revised Code 2543
and may be used for any purpose for which payments received under 2544
that division may be used. Through July 15, 2005, the sum of 2545

eighty-seven thousand seven hundred fifty dollars shall be monthly 2546
subtracted from the amount so computed and credited to the highway 2547
operating fund. Beginning August 15, 2005, the sum of two hundred 2548
sixty-three thousand two hundred fifty dollars shall be monthly 2549
subtracted from the amount so computed and credited to the highway 2550
operating fund. 2551

(c) Nine and three-tenths per cent shall be paid to counties 2552
for distribution pursuant to division (A)(3) of section 5735.27 of 2553
the Revised Code and may be used for any purpose for which 2554
payments received under that division may be used. Through July 2555
15, 2005, the sum of two hundred forty-eight thousand six hundred 2556
twenty-five dollars shall be monthly subtracted from the amount so 2557
computed and credited to the highway operating fund. Beginning 2558
August 15, 2005, the sum of seven hundred forty-five thousand 2559
eight hundred seventy-five dollars shall be monthly subtracted 2560
from the amount so computed and credited to the highway operating 2561
fund. 2562

(d) Except as provided in division (D) of this section, the 2563
balance shall be transferred to the highway operating fund and 2564
used for the purposes set forth in division (B)(1) of section 2565
5735.27 of the Revised Code. 2566

(D) Monthly from September to February of each fiscal year, 2567
an amount equal to one-sixth of the amount certified in July of 2568
that year by the treasurer of state pursuant to division (Q) of 2569
section 151.01 of the Revised Code shall, from amounts required to 2570
be credited or transferred to the highway operating fund pursuant 2571
to division (B)(2)(c) or (C)(2)(d) of this section, be credited or 2572
transferred to the highway capital improvement bond service fund 2573
created in section 151.06 of the Revised Code. If, in any of those 2574
months, the amount available to be credited or transferred to the 2575
bond service fund is less than one-sixth of the amount so 2576
certified, the shortfall shall be added to the amount due the next 2577

succeeding month. Any amount still due at the end of the six-month 2578
period shall be credited or transferred as the money becomes 2579
available, until such time as the office of budget and management 2580
receives certification from the treasurer of state or the 2581
treasurer of state's designee that sufficient money has been 2582
credited or transferred to the bond service fund to meet in full 2583
all payments of debt service and financing costs due during the 2584
fiscal year from that fund. 2585

Sec. 5739.02. For the purpose of providing revenue with which 2586
to meet the needs of the state, for the use of the general revenue 2587
fund of the state, for the purpose of securing a thorough and 2588
efficient system of common schools throughout the state, for the 2589
purpose of affording revenues, in addition to those from general 2590
property taxes, permitted under constitutional limitations, and 2591
from other sources, for the support of local governmental 2592
functions, and for the purpose of reimbursing the state for the 2593
expense of administering this chapter, an excise tax is hereby 2594
levied on each retail sale made in this state. 2595

(A)(1) The tax shall be collected as provided in section 2596
5739.025 of the Revised Code. The rate of the tax shall be five 2597
and one-half per cent. The tax applies and is collectible when the 2598
sale is made, regardless of the time when the price is paid or 2599
delivered. 2600

(2) In the case of the lease or rental, with a fixed term of 2601
more than thirty days or an indefinite term with a minimum period 2602
of more than thirty days, of any motor vehicles designed by the 2603
manufacturer to carry a load of not more than one ton, watercraft, 2604
outboard motor, or aircraft, or of any tangible personal property, 2605
other than motor vehicles designed by the manufacturer to carry a 2606
load of more than one ton, to be used by the lessee or renter 2607
primarily for business purposes, the tax shall be collected by the 2608

vendor at the time the lease or rental is consummated and shall be 2609
calculated by the vendor on the basis of the total amount to be 2610
paid by the lessee or renter under the lease agreement. If the 2611
total amount of the consideration for the lease or rental includes 2612
amounts that are not calculated at the time the lease or rental is 2613
executed, the tax shall be calculated and collected by the vendor 2614
at the time such amounts are billed to the lessee or renter. In 2615
the case of an open-end lease or rental, the tax shall be 2616
calculated by the vendor on the basis of the total amount to be 2617
paid during the initial fixed term of the lease or rental, and for 2618
each subsequent renewal period as it comes due. As used in this 2619
division, "motor vehicle" has the same meaning as in section 2620
4501.01 of the Revised Code, and "watercraft" includes an outdrive 2621
unit attached to the watercraft. 2622

A lease with a renewal clause and a termination penalty or 2623
similar provision that applies if the renewal clause is not 2624
exercised is presumed to be a sham transaction. In such a case, 2625
the tax shall be calculated and paid on the basis of the entire 2626
length of the lease period, including any renewal periods, until 2627
the termination penalty or similar provision no longer applies. 2628
The taxpayer shall bear the burden, by a preponderance of the 2629
evidence, that the transaction or series of transactions is not a 2630
sham transaction. 2631

(3) Except as provided in division (A)(2) of this section, in 2632
the case of a sale, the price of which consists in whole or in 2633
part of the lease or rental of tangible personal property, the tax 2634
shall be measured by the installments of that lease or rental. 2635

(4) In the case of a sale of a physical fitness facility 2636
service or recreation and sports club service, the price of which 2637
consists in whole or in part of a membership for the receipt of 2638
the benefit of the service, the tax applicable to the sale shall 2639
be measured by the installments thereof. 2640

(B) The tax does not apply to the following:	2641
(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;	2642 2643 2644 2645
(2) Sales of food for human consumption off the premises where sold;	2646 2647
(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;	2648 2649 2650
(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;	2651 2652 2653
(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;	2654 2655 2656 2657
(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;	2658 2659 2660 2661 2662 2663 2664 2665 2666 2667
(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a	2668 2669 2670 2671

telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply 2704
to sales by a noncommercial educational radio or television 2705
broadcasting station. 2706

(10) Sales not within the taxing power of this state under 2707
the Constitution of the United States; 2708

(11) Except for transactions that are sales under division 2709
(B)(3)(r) of section 5739.01 of the Revised Code, the 2710
transportation of persons or property, unless the transportation 2711
is by a private investigation and security service; 2712

(12) Sales of tangible personal property or services to 2713
churches, to organizations exempt from taxation under section 2714
501(c)(3) of the Internal Revenue Code of 1986, and to any other 2715
nonprofit organizations operated exclusively for charitable 2716
purposes in this state, no part of the net income of which inures 2717
to the benefit of any private shareholder or individual, and no 2718
substantial part of the activities of which consists of carrying 2719
on propaganda or otherwise attempting to influence legislation; 2720
sales to offices administering one or more homes for the aged or 2721
one or more hospital facilities exempt under section 140.08 of the 2722
Revised Code; and sales to organizations described in division (D) 2723
of section 5709.12 of the Revised Code. 2724

"Charitable purposes" means the relief of poverty; the 2725
improvement of health through the alleviation of illness, disease, 2726
or injury; the operation of an organization exclusively for the 2727
provision of professional, laundry, printing, and purchasing 2728
services to hospitals or charitable institutions; the operation of 2729
a home for the aged, as defined in section 5701.13 of the Revised 2730
Code; the operation of a radio or television broadcasting station 2731
that is licensed by the federal communications commission as a 2732
noncommercial educational radio or television station; the 2733
operation of a nonprofit animal adoption service or a county 2734
humane society; the promotion of education by an institution of 2735

learning that maintains a faculty of qualified instructors, 2736
teaches regular continuous courses of study, and confers a 2737
recognized diploma upon completion of a specific curriculum; the 2738
operation of a parent-teacher association, booster group, or 2739
similar organization primarily engaged in the promotion and 2740
support of the curricular or extracurricular activities of a 2741
primary or secondary school; the operation of a community or area 2742
center in which presentations in music, dramatics, the arts, and 2743
related fields are made in order to foster public interest and 2744
education therein; the production of performances in music, 2745
dramatics, and the arts; or the promotion of education by an 2746
organization engaged in carrying on research in, or the 2747
dissemination of, scientific and technological knowledge and 2748
information primarily for the public. 2749

Nothing in this division shall be deemed to exempt sales to 2750
any organization for use in the operation or carrying on of a 2751
trade or business, or sales to a home for the aged for use in the 2752
operation of independent living facilities as defined in division 2753
(A) of section 5709.12 of the Revised Code. 2754

(13) Building and construction materials and services sold to 2755
construction contractors for incorporation into a structure or 2756
improvement to real property under a construction contract with 2757
this state or a political subdivision of this state, or with the 2758
United States government or any of its agencies; building and 2759
construction materials and services sold to construction 2760
contractors for incorporation into a structure or improvement to 2761
real property that are accepted for ownership by this state or any 2762
of its political subdivisions, or by the United States government 2763
or any of its agencies at the time of completion of the structures 2764
or improvements; building and construction materials sold to 2765
construction contractors for incorporation into a horticulture 2766
structure or livestock structure for a person engaged in the 2767

business of horticulture or producing livestock; building	2768
materials and services sold to a construction contractor for	2769
incorporation into a house of public worship or religious	2770
education, or a building used exclusively for charitable purposes	2771
under a construction contract with an organization whose purpose	2772
is as described in division (B)(12) of this section; building	2773
materials and services sold to a construction contractor for	2774
incorporation into a building under a construction contract with	2775
an organization exempt from taxation under section 501(c)(3) of	2776
the Internal Revenue Code of 1986 when the building is to be used	2777
exclusively for the organization's exempt purposes; building and	2778
construction materials sold for incorporation into the original	2779
construction of a sports facility under section 307.696 of the	2780
Revised Code; building and construction materials and services	2781
sold to a construction contractor for incorporation into real	2782
property outside this state if such materials and services, when	2783
sold to a construction contractor in the state in which the real	2784
property is located for incorporation into real property in that	2785
state, would be exempt from a tax on sales levied by that state;	2786
and, until one calendar year after the construction of a	2787
convention center that qualifies for property tax exemption under	2788
section 5709.084 of the Revised Code is completed, building and	2789
construction materials and services sold to a construction	2790
contractor for incorporation into the real property comprising	2791
that convention center;	2792
(14) Sales of ships or vessels or rail rolling stock used or	2793
to be used principally in interstate or foreign commerce, and	2794
repairs, alterations, fuel, and lubricants for such ships or	2795
vessels or rail rolling stock;	2796
(15) Sales to persons primarily engaged in any of the	2797
activities mentioned in division (B)(42)(a), (g), or (h) of this	2798
section, to persons engaged in making retail sales, or to persons	2799

who purchase for sale from a manufacturer tangible personal 2800
property that was produced by the manufacturer in accordance with 2801
specific designs provided by the purchaser, of packages, including 2802
material, labels, and parts for packages, and of machinery, 2803
equipment, and material for use primarily in packaging tangible 2804
personal property produced for sale, including any machinery, 2805
equipment, and supplies used to make labels or packages, to 2806
prepare packages or products for labeling, or to label packages or 2807
products, by or on the order of the person doing the packaging, or 2808
sold at retail. "Packages" includes bags, baskets, cartons, 2809
crates, boxes, cans, bottles, bindings, wrappings, and other 2810
similar devices and containers, but does not include motor 2811
vehicles or bulk tanks, trailers, or similar devices attached to 2812
motor vehicles. "Packaging" means placing in a package. Division 2813
(B)(15) of this section does not apply to persons engaged in 2814
highway transportation for hire. 2815

(16) Sales of food to persons using supplemental nutrition 2816
assistance program benefits to purchase the food. As used in this 2817
division, "food" has the same meaning as in 7 U.S.C. 2012 and 2818
federal regulations adopted pursuant to the Food and Nutrition Act 2819
of 2008. 2820

(17) Sales to persons engaged in farming, agriculture, 2821
horticulture, or floriculture, of tangible personal property for 2822
use or consumption primarily in the production by farming, 2823
agriculture, horticulture, or floriculture of other tangible 2824
personal property for use or consumption primarily in the 2825
production of tangible personal property for sale by farming, 2826
agriculture, horticulture, or floriculture; or material and parts 2827
for incorporation into any such tangible personal property for use 2828
or consumption in production; and of tangible personal property 2829
for such use or consumption in the conditioning or holding of 2830
products produced by and for such use, consumption, or sale by 2831

persons engaged in farming, agriculture, horticulture, or 2832
floriculture, except where such property is incorporated into real 2833
property; 2834

(18) Sales of drugs for a human being that may be dispensed 2835
only pursuant to a prescription; insulin as recognized in the 2836
official United States pharmacopoeia; urine and blood testing 2837
materials when used by diabetics or persons with hypoglycemia to 2838
test for glucose or acetone; hypodermic syringes and needles when 2839
used by diabetics for insulin injections; epoetin alfa when 2840
purchased for use in the treatment of persons with medical 2841
disease; hospital beds when purchased by hospitals, nursing homes, 2842
or other medical facilities; and medical oxygen and medical 2843
oxygen-dispensing equipment when purchased by hospitals, nursing 2844
homes, or other medical facilities; 2845

(19) Sales of prosthetic devices, durable medical equipment 2846
for home use, or mobility enhancing equipment, when made pursuant 2847
to a prescription and when such devices or equipment are for use 2848
by a human being. 2849

(20) Sales of emergency and fire protection vehicles and 2850
equipment to nonprofit organizations for use solely in providing 2851
fire protection and emergency services, including trauma care and 2852
emergency medical services, for political subdivisions of the 2853
state; 2854

(21) Sales of tangible personal property manufactured in this 2855
state, if sold by the manufacturer in this state to a retailer for 2856
use in the retail business of the retailer outside of this state 2857
and if possession is taken from the manufacturer by the purchaser 2858
within this state for the sole purpose of immediately removing the 2859
same from this state in a vehicle owned by the purchaser; 2860

(22) Sales of services provided by the state or any of its 2861
political subdivisions, agencies, instrumentalities, institutions, 2862

or authorities, or by governmental entities of the state or any of 2863
its political subdivisions, agencies, instrumentalities, 2864
institutions, or authorities; 2865

(23) Sales of motor vehicles to nonresidents of this state 2866
under the circumstances described in division (B) of section 2867
5739.029 of the Revised Code; 2868

(24) Sales to persons engaged in the preparation of eggs for 2869
sale of tangible personal property used or consumed directly in 2870
such preparation, including such tangible personal property used 2871
for cleaning, sanitizing, preserving, grading, sorting, and 2872
classifying by size; packages, including material and parts for 2873
packages, and machinery, equipment, and material for use in 2874
packaging eggs for sale; and handling and transportation equipment 2875
and parts therefor, except motor vehicles licensed to operate on 2876
public highways, used in intraplant or interplant transfers or 2877
shipment of eggs in the process of preparation for sale, when the 2878
plant or plants within or between which such transfers or 2879
shipments occur are operated by the same person. "Packages" 2880
includes containers, cases, baskets, flats, fillers, filler flats, 2881
cartons, closure materials, labels, and labeling materials, and 2882
"packaging" means placing therein. 2883

(25)(a) Sales of water to a consumer for residential use; 2884

(b) Sales of water by a nonprofit corporation engaged 2885
exclusively in the treatment, distribution, and sale of water to 2886
consumers, if such water is delivered to consumers through pipes 2887
or tubing. 2888

(26) Fees charged for inspection or reinspection of motor 2889
vehicles under section 3704.14 of the Revised Code; 2890

(27) Sales to persons licensed to conduct a food service 2891
operation pursuant to section 3717.43 of the Revised Code, of 2892
tangible personal property primarily used directly for the 2893

following:	2894
(a) To prepare food for human consumption for sale;	2895
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	2896 2897 2898 2899
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	2900 2901
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	2902 2903
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	2904 2905 2906 2907
(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;	2908 2909 2910
(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;	2911 2912 2913
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;	2914 2915 2916 2917 2918 2919
(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the	2920 2921 2922 2923

headquarters;	2924
(34) Sales to a telecommunications service vendor, mobile	2925
telecommunications service vendor, or satellite broadcasting	2926
service vendor of tangible personal property and services used	2927
directly and primarily in transmitting, receiving, switching, or	2928
recording any interactive, one- or two-way electromagnetic	2929
communications, including voice, image, data, and information,	2930
through the use of any medium, including, but not limited to,	2931
poles, wires, cables, switching equipment, computers, and record	2932
storage devices and media, and component parts for the tangible	2933
personal property. The exemption provided in this division shall	2934
be in lieu of all other exemptions under division (B)(42)(a) or	2935
(n) of this section to which the vendor may otherwise be entitled,	2936
based upon the use of the thing purchased in providing the	2937
telecommunications, mobile telecommunications, or satellite	2938
broadcasting service.	2939
(35)(a) Sales where the purpose of the consumer is to use or	2940
consume the things transferred in making retail sales and	2941
consisting of newspaper inserts, catalogues, coupons, flyers, gift	2942
certificates, or other advertising material that prices and	2943
describes tangible personal property offered for retail sale.	2944
(b) Sales to direct marketing vendors of preliminary	2945
materials such as photographs, artwork, and typesetting that will	2946
be used in printing advertising material; and of printed matter	2947
that offers free merchandise or chances to win sweepstake prizes	2948
and that is mailed to potential customers with advertising	2949
material described in division (B)(35)(a) of this section;	2950
(c) Sales of equipment such as telephones, computers,	2951
facsimile machines, and similar tangible personal property	2952
primarily used to accept orders for direct marketing retail sales.	2953
(d) Sales of automatic food vending machines that preserve	2954

food with a shelf life of forty-five days or less by refrigeration 2955
and dispense it to the consumer. 2956

For purposes of division (B)(35) of this section, "direct 2957
marketing" means the method of selling where consumers order 2958
tangible personal property by United States mail, delivery 2959
service, or telecommunication and the vendor delivers or ships the 2960
tangible personal property sold to the consumer from a warehouse, 2961
catalogue distribution center, or similar fulfillment facility by 2962
means of the United States mail, delivery service, or common 2963
carrier. 2964

(36) Sales to a person engaged in the business of 2965
horticulture or producing livestock of materials to be 2966
incorporated into a horticulture structure or livestock structure; 2967

(37) Sales of personal computers, computer monitors, computer 2968
keyboards, modems, and other peripheral computer equipment to an 2969
individual who is licensed or certified to teach in an elementary 2970
or a secondary school in this state for use by that individual in 2971
preparation for teaching elementary or secondary school students; 2972

(38) Sales to a professional racing team of any of the 2973
following: 2974

(a) Motor racing vehicles; 2975

(b) Repair services for motor racing vehicles; 2976

(c) Items of property that are attached to or incorporated in 2977
motor racing vehicles, including engines, chassis, and all other 2978
components of the vehicles, and all spare, replacement, and 2979
rebuilt parts or components of the vehicles; except not including 2980
tires, consumable fluids, paint, and accessories consisting of 2981
instrumentation sensors and related items added to the vehicle to 2982
collect and transmit data by means of telemetry and other forms of 2983
communication. 2984

(39) Sales of used manufactured homes and used mobile homes, 2985
as defined in section 5739.0210 of the Revised Code, made on or 2986
after January 1, 2000; 2987

(40) Sales of tangible personal property and services to a 2988
provider of electricity used or consumed directly and primarily in 2989
generating, transmitting, or distributing electricity for use by 2990
others, including property that is or is to be incorporated into 2991
and will become a part of the consumer's production, transmission, 2992
or distribution system and that retains its classification as 2993
tangible personal property after incorporation; fuel or power used 2994
in the production, transmission, or distribution of electricity; 2995
energy conversion equipment as defined in section 5727.01 of the 2996
Revised Code; and tangible personal property and services used in 2997
the repair and maintenance of the production, transmission, or 2998
distribution system, including only those motor vehicles as are 2999
specially designed and equipped for such use. The exemption 3000
provided in this division shall be in lieu of all other exemptions 3001
in division (B)(42)(a) or (n) of this section to which a provider 3002
of electricity may otherwise be entitled based on the use of the 3003
tangible personal property or service purchased in generating, 3004
transmitting, or distributing electricity. 3005

(41) Sales to a person providing services under division 3006
(B)(3)(r) of section 5739.01 of the Revised Code of tangible 3007
personal property and services used directly and primarily in 3008
providing taxable services under that section. 3009

(42) Sales where the purpose of the purchaser is to do any of 3010
the following: 3011

(a) To incorporate the thing transferred as a material or a 3012
part into tangible personal property to be produced for sale by 3013
manufacturing, assembling, processing, or refining; or to use or 3014
consume the thing transferred directly in producing tangible 3015
personal property for sale by mining, including, without 3016

limitation, the extraction from the earth of all substances that 3017
are classed geologically as minerals, production of crude oil and 3018
natural gas, or directly in the rendition of a public utility 3019
service, except that the sales tax levied by this section shall be 3020
collected upon all meals, drinks, and food for human consumption 3021
sold when transporting persons. Persons engaged in rendering 3022
services in the exploration for, and production of, crude oil and 3023
natural gas for others are deemed engaged directly in the 3024
exploration for, and production of, crude oil and natural gas. 3025
This paragraph does not exempt from "retail sale" or "sales at 3026
retail" the sale of tangible personal property that is to be 3027
incorporated into a structure or improvement to real property. 3028

(b) To hold the thing transferred as security for the 3029
performance of an obligation of the vendor; 3030

(c) To resell, hold, use, or consume the thing transferred as 3031
evidence of a contract of insurance; 3032

(d) To use or consume the thing directly in commercial 3033
fishing; 3034

(e) To incorporate the thing transferred as a material or a 3035
part into, or to use or consume the thing transferred directly in 3036
the production of, magazines distributed as controlled circulation 3037
publications; 3038

(f) To use or consume the thing transferred in the production 3039
and preparation in suitable condition for market and sale of 3040
printed, imprinted, overprinted, lithographic, multilithic, 3041
blueprinted, photostatic, or other productions or reproductions of 3042
written or graphic matter; 3043

(g) To use the thing transferred, as described in section 3044
5739.011 of the Revised Code, primarily in a manufacturing 3045
operation to produce tangible personal property for sale; 3046

(h) To use the benefit of a warranty, maintenance or service 3047

contract, or similar agreement, as described in division (B)(7) of 3048
section 5739.01 of the Revised Code, to repair or maintain 3049
tangible personal property, if all of the property that is the 3050
subject of the warranty, contract, or agreement would not be 3051
subject to the tax imposed by this section; 3052

(i) To use the thing transferred as qualified research and 3053
development equipment; 3054

(j) To use or consume the thing transferred primarily in 3055
storing, transporting, mailing, or otherwise handling purchased 3056
sales inventory in a warehouse, distribution center, or similar 3057
facility when the inventory is primarily distributed outside this 3058
state to retail stores of the person who owns or controls the 3059
warehouse, distribution center, or similar facility, to retail 3060
stores of an affiliated group of which that person is a member, or 3061
by means of direct marketing. This division does not apply to 3062
motor vehicles registered for operation on the public highways. As 3063
used in this division, "affiliated group" has the same meaning as 3064
in division (B)(3)(e) of section 5739.01 of the Revised Code and 3065
"direct marketing" has the same meaning as in division (B)(35) of 3066
this section. 3067

(k) To use or consume the thing transferred to fulfill a 3068
contractual obligation incurred by a warrantor pursuant to a 3069
warranty provided as a part of the price of the tangible personal 3070
property sold or by a vendor of a warranty, maintenance or service 3071
contract, or similar agreement the provision of which is defined 3072
as a sale under division (B)(7) of section 5739.01 of the Revised 3073
Code; 3074

(l) To use or consume the thing transferred in the production 3075
of a newspaper for distribution to the public; 3076

(m) To use tangible personal property to perform a service 3077
listed in division (B)(3) of section 5739.01 of the Revised Code, 3078

if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used	3110
directly and primarily to perform the functions of a call center.	3111
As used in this division, "call center" means any physical	3112
location where telephone calls are placed or received in high	3113
volume for the purpose of making sales, marketing, customer	3114
service, technical support, or other specialized business	3115
activity, and that employs at least fifty individuals that engage	3116
in call center activities on a full-time basis, or sufficient	3117
individuals to fill fifty full-time equivalent positions.	3118
(46) Sales by a telecommunications service vendor of 900	3119
service to a subscriber. This division does not apply to	3120
information services, as defined in division (FF) of section	3121
5739.01 of the Revised Code.	3122
(47) Sales of value-added non-voice data service. This	3123
division does not apply to any similar service that is not	3124
otherwise a telecommunications service.	3125
(48)(a) Sales of machinery, equipment, and software to a	3126
qualified direct selling entity for use in a warehouse or	3127
distribution center primarily for storing, transporting, or	3128
otherwise handling inventory that is held for sale to independent	3129
salespersons who operate as direct sellers and that is held	3130
primarily for distribution outside this state;	3131
(b) As used in division (B)(48)(a) of this section:	3132
(i) "Direct seller" means a person selling consumer products	3133
to individuals for personal or household use and not from a fixed	3134
retail location, including selling such product at in-home product	3135
demonstrations, parties, and other one-on-one selling.	3136
(ii) "Qualified direct selling entity" means an entity	3137
selling to direct sellers at the time the entity enters into a tax	3138
credit agreement with the tax credit authority pursuant to section	3139
122.17 of the Revised Code, provided that the agreement was	3140

entered into on or after January 1, 2007. Neither contingencies 3141
relevant to the granting of, nor later developments with respect 3142
to, the tax credit shall impair the status of the qualified direct 3143
selling entity under division (B)(48) of this section after 3144
execution of the tax credit agreement by the tax credit authority. 3145

(c) Division (B)(48) of this section is limited to machinery, 3146
equipment, and software first stored, used, or consumed in this 3147
state within the period commencing June 24, 2008, and ending on 3148
the date that is five years after that date. 3149

(49) Sales of materials, parts, equipment, or engines used in 3150
the repair or maintenance of aircraft or avionics systems of such 3151
aircraft, and sales of repair, remodeling, replacement, or 3152
maintenance services in this state performed on aircraft or on an 3153
aircraft's avionics, engine, or component materials or parts. As 3154
used in division (B)(49) of this section, "aircraft" means 3155
aircraft of more than six thousand pounds maximum certified 3156
takeoff weight or used exclusively in general aviation. 3157

(50) Sales of full flight simulators that are used for pilot 3158
or flight-crew training, sales of repair or replacement parts or 3159
components, and sales of repair or maintenance services for such 3160
full flight simulators. "Full flight simulator" means a replica of 3161
a specific type, or make, model, and series of aircraft cockpit. 3162
It includes the assemblage of equipment and computer programs 3163
necessary to represent aircraft operations in ground and flight 3164
conditions, a visual system providing an out-of-the-cockpit view, 3165
and a system that provides cues at least equivalent to those of a 3166
three-degree-of-freedom motion system, and has the full range of 3167
capabilities of the systems installed in the device as described 3168
in appendices A and B of part 60 of chapter 1 of title 14 of the 3169
Code of Federal Regulations. 3170

(51) Any transfer or lease of tangible personal property 3171
~~between the state and a successful proposer in accordance with~~ 3172

~~sections 126.60 to 126.605 of the Revised Code, provided the~~ 3173
~~property is part of a project as defined in section 126.60 of the~~ 3174
~~Revised Code and the state retains ownership of the project or~~ 3175
~~part thereof that is being transferred or leased,~~ between the 3176
state and JobsOhio in accordance with section 4313.02 of the 3177
Revised Code. 3178

(C) For the purpose of the proper administration of this 3179
chapter, and to prevent the evasion of the tax, it is presumed 3180
that all sales made in this state are subject to the tax until the 3181
contrary is established. 3182

(D) The levy of this tax on retail sales of recreation and 3183
sports club service shall not prevent a municipal corporation from 3184
levying any tax on recreation and sports club dues or on any 3185
income generated by recreation and sports club dues. 3186

(E) The tax collected by the vendor from the consumer under 3187
this chapter is not part of the price, but is a tax collection for 3188
the benefit of the state, and of counties levying an additional 3189
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 3190
Code and of transit authorities levying an additional sales tax 3191
pursuant to section 5739.023 of the Revised Code. Except for the 3192
discount authorized under section 5739.12 of the Revised Code and 3193
the effects of any rounding pursuant to section 5703.055 of the 3194
Revised Code, no person other than the state or such a county or 3195
transit authority shall derive any benefit from the collection or 3196
payment of the tax levied by this section or section 5739.021, 3197
5739.023, or 5739.026 of the Revised Code. 3198

Sec. 5747.01. Except as otherwise expressly provided or 3199
clearly appearing from the context, any term used in this chapter 3200
that is not otherwise defined in this section has the same meaning 3201
as when used in a comparable context in the laws of the United 3202
States relating to federal income taxes or if not used in a 3203

comparable context in those laws, has the same meaning as in 3204
section 5733.40 of the Revised Code. Any reference in this chapter 3205
to the Internal Revenue Code includes other laws of the United 3206
States relating to federal income taxes. 3207

As used in this chapter: 3208

(A) "Adjusted gross income" or "Ohio adjusted gross income" 3209
means federal adjusted gross income, as defined and used in the 3210
Internal Revenue Code, adjusted as provided in this section: 3211

(1) Add interest or dividends on obligations or securities of 3212
any state or of any political subdivision or authority of any 3213
state, other than this state and its subdivisions and authorities. 3214

(2) Add interest or dividends on obligations of any 3215
authority, commission, instrumentality, territory, or possession 3216
of the United States to the extent that the interest or dividends 3217
are exempt from federal income taxes but not from state income 3218
taxes. 3219

(3) Deduct interest or dividends on obligations of the United 3220
States and its territories and possessions or of any authority, 3221
commission, or instrumentality of the United States to the extent 3222
that the interest or dividends are included in federal adjusted 3223
gross income but exempt from state income taxes under the laws of 3224
the United States. 3225

(4) Deduct disability and survivor's benefits to the extent 3226
included in federal adjusted gross income. 3227

(5) Deduct benefits under Title II of the Social Security Act 3228
and tier 1 railroad retirement benefits to the extent included in 3229
federal adjusted gross income under section 86 of the Internal 3230
Revenue Code. 3231

(6) In the case of a taxpayer who is a beneficiary of a trust 3232
that makes an accumulation distribution as defined in section 665 3233

of the Internal Revenue Code, add, for the beneficiary's taxable 3234
years beginning before 2002, the portion, if any, of such 3235
distribution that does not exceed the undistributed net income of 3236
the trust for the three taxable years preceding the taxable year 3237
in which the distribution is made to the extent that the portion 3238
was not included in the trust's taxable income for any of the 3239
trust's taxable years beginning in 2002 or thereafter. 3240

"Undistributed net income of a trust" means the taxable income of 3241
the trust increased by (a)(i) the additions to adjusted gross 3242
income required under division (A) of this section and (ii) the 3243
personal exemptions allowed to the trust pursuant to section 3244
642(b) of the Internal Revenue Code, and decreased by (b)(i) the 3245
deductions to adjusted gross income required under division (A) of 3246
this section, (ii) the amount of federal income taxes attributable 3247
to such income, and (iii) the amount of taxable income that has 3248
been included in the adjusted gross income of a beneficiary by 3249
reason of a prior accumulation distribution. Any undistributed net 3250
income included in the adjusted gross income of a beneficiary 3251
shall reduce the undistributed net income of the trust commencing 3252
with the earliest years of the accumulation period. 3253

(7) Deduct the amount of wages and salaries, if any, not 3254
otherwise allowable as a deduction but that would have been 3255
allowable as a deduction in computing federal adjusted gross 3256
income for the taxable year, had the targeted jobs credit allowed 3257
and determined under sections 38, 51, and 52 of the Internal 3258
Revenue Code not been in effect. 3259

(8) Deduct any interest or interest equivalent on public 3260
obligations and purchase obligations to the extent that the 3261
interest or interest equivalent is included in federal adjusted 3262
gross income. 3263

(9) Add any loss or deduct any gain resulting from the sale, 3264
exchange, or other disposition of public obligations to the extent 3265

that the loss has been deducted or the gain has been included in 3266
computing federal adjusted gross income. 3267

(10) Deduct or add amounts, as provided under section 5747.70 3268
of the Revised Code, related to contributions to variable college 3269
savings program accounts made or tuition units purchased pursuant 3270
to Chapter 3334. of the Revised Code. 3271

(11)(a) Deduct, to the extent not otherwise allowable as a 3272
deduction or exclusion in computing federal or Ohio adjusted gross 3273
income for the taxable year, the amount the taxpayer paid during 3274
the taxable year for medical care insurance and qualified 3275
long-term care insurance for the taxpayer, the taxpayer's spouse, 3276
and dependents. No deduction for medical care insurance under 3277
division (A)(11) of this section shall be allowed either to any 3278
taxpayer who is eligible to participate in any subsidized health 3279
plan maintained by any employer of the taxpayer or of the 3280
taxpayer's spouse, or to any taxpayer who is entitled to, or on 3281
application would be entitled to, benefits under part A of Title 3282
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 3283
301, as amended. For the purposes of division (A)(11)(a) of this 3284
section, "subsidized health plan" means a health plan for which 3285
the employer pays any portion of the plan's cost. The deduction 3286
allowed under division (A)(11)(a) of this section shall be the net 3287
of any related premium refunds, related premium reimbursements, or 3288
related insurance premium dividends received during the taxable 3289
year. 3290

(b) Deduct, to the extent not otherwise deducted or excluded 3291
in computing federal or Ohio adjusted gross income during the 3292
taxable year, the amount the taxpayer paid during the taxable 3293
year, not compensated for by any insurance or otherwise, for 3294
medical care of the taxpayer, the taxpayer's spouse, and 3295
dependents, to the extent the expenses exceed seven and one-half 3296
per cent of the taxpayer's federal adjusted gross income. 3297

(c) Deduct, to the extent not otherwise deducted or excluded 3298
in computing federal or Ohio adjusted gross income, any amount 3299
included in federal adjusted gross income under section 105 or not 3300
excluded under section 106 of the Internal Revenue Code solely 3301
because it relates to an accident and health plan for a person who 3302
otherwise would be a "qualifying relative" and thus a "dependent" 3303
under section 152 of the Internal Revenue Code but for the fact 3304
that the person fails to meet the income and support limitations 3305
under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 3306

(d) For purposes of division (A)(11) of this section, 3307
"medical care" has the meaning given in section 213 of the 3308
Internal Revenue Code, subject to the special rules, limitations, 3309
and exclusions set forth therein, and "qualified long-term care" 3310
has the same meaning given in section 7702B(c) of the Internal 3311
Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) 3312
of this section, "dependent" includes a person who otherwise would 3313
be a "qualifying relative" and thus a "dependent" under section 3314
152 of the Internal Revenue Code but for the fact that the person 3315
fails to meet the income and support limitations under section 3316
152(d)(1)(B) and (C) of the Internal Revenue Code. 3317

(12)(a) Deduct any amount included in federal adjusted gross 3318
income solely because the amount represents a reimbursement or 3319
refund of expenses that in any year the taxpayer had deducted as 3320
an itemized deduction pursuant to section 63 of the Internal 3321
Revenue Code and applicable United States department of the 3322
treasury regulations. The deduction otherwise allowed under 3323
division (A)(12)(a) of this section shall be reduced to the extent 3324
the reimbursement is attributable to an amount the taxpayer 3325
deducted under this section in any taxable year. 3326

(b) Add any amount not otherwise included in Ohio adjusted 3327
gross income for any taxable year to the extent that the amount is 3328
attributable to the recovery during the taxable year of any amount 3329

deducted or excluded in computing federal or Ohio adjusted gross 3330
income in any taxable year. 3331

(13) Deduct any portion of the deduction described in section 3332
1341(a)(2) of the Internal Revenue Code, for repaying previously 3333
reported income received under a claim of right, that meets both 3334
of the following requirements: 3335

(a) It is allowable for repayment of an item that was 3336
included in the taxpayer's adjusted gross income for a prior 3337
taxable year and did not qualify for a credit under division (A) 3338
or (B) of section 5747.05 of the Revised Code for that year; 3339

(b) It does not otherwise reduce the taxpayer's adjusted 3340
gross income for the current or any other taxable year. 3341

(14) Deduct an amount equal to the deposits made to, and net 3342
investment earnings of, a medical savings account during the 3343
taxable year, in accordance with section 3924.66 of the Revised 3344
Code. The deduction allowed by division (A)(14) of this section 3345
does not apply to medical savings account deposits and earnings 3346
otherwise deducted or excluded for the current or any other 3347
taxable year from the taxpayer's federal adjusted gross income. 3348

(15)(a) Add an amount equal to the funds withdrawn from a 3349
medical savings account during the taxable year, and the net 3350
investment earnings on those funds, when the funds withdrawn were 3351
used for any purpose other than to reimburse an account holder 3352
for, or to pay, eligible medical expenses, in accordance with 3353
section 3924.66 of the Revised Code; 3354

(b) Add the amounts distributed from a medical savings 3355
account under division (A)(2) of section 3924.68 of the Revised 3356
Code during the taxable year. 3357

(16) Add any amount claimed as a credit under section 3358
5747.059 or 5747.65 of the Revised Code to the extent that such 3359
amount satisfies either of the following: 3360

(a) The amount was deducted or excluded from the computation 3361
of the taxpayer's federal adjusted gross income as required to be 3362
reported for the taxpayer's taxable year under the Internal 3363
Revenue Code; 3364

(b) The amount resulted in a reduction of the taxpayer's 3365
federal adjusted gross income as required to be reported for any 3366
of the taxpayer's taxable years under the Internal Revenue Code. 3367

(17) Deduct the amount contributed by the taxpayer to an 3368
individual development account program established by a county 3369
department of job and family services pursuant to sections 329.11 3370
to 329.14 of the Revised Code for the purpose of matching funds 3371
deposited by program participants. On request of the tax 3372
commissioner, the taxpayer shall provide any information that, in 3373
the tax commissioner's opinion, is necessary to establish the 3374
amount deducted under division (A)(17) of this section. 3375

(18) Beginning in taxable year 2001 but not for any taxable 3376
year beginning after December 31, 2005, if the taxpayer is married 3377
and files a joint return and the combined federal adjusted gross 3378
income of the taxpayer and the taxpayer's spouse for the taxable 3379
year does not exceed one hundred thousand dollars, or if the 3380
taxpayer is single and has a federal adjusted gross income for the 3381
taxable year not exceeding fifty thousand dollars, deduct amounts 3382
paid during the taxable year for qualified tuition and fees paid 3383
to an eligible institution for the taxpayer, the taxpayer's 3384
spouse, or any dependent of the taxpayer, who is a resident of 3385
this state and is enrolled in or attending a program that 3386
culminates in a degree or diploma at an eligible institution. The 3387
deduction may be claimed only to the extent that qualified tuition 3388
and fees are not otherwise deducted or excluded for any taxable 3389
year from federal or Ohio adjusted gross income. The deduction may 3390
not be claimed for educational expenses for which the taxpayer 3391
claims a credit under section 5747.27 of the Revised Code. 3392

(19) Add any reimbursement received during the taxable year 3393
of any amount the taxpayer deducted under division (A)(18) of this 3394
section in any previous taxable year to the extent the amount is 3395
not otherwise included in Ohio adjusted gross income. 3396

(20)(a)(i) Subject to divisions (A)(20)(a)(iii), (iv), and 3397
(v) of this section, add five-sixths of the amount of depreciation 3398
expense allowed by subsection (k) of section 168 of the Internal 3399
Revenue Code, including the taxpayer's proportionate or 3400
distributive share of the amount of depreciation expense allowed 3401
by that subsection to a pass-through entity in which the taxpayer 3402
has a direct or indirect ownership interest. 3403

(ii) Subject to divisions (A)(20)(a)(iii), (iv), and (v) of 3404
this section, add five-sixths of the amount of qualifying section 3405
179 depreciation expense, including the taxpayer's proportionate 3406
or distributive share of the amount of qualifying section 179 3407
depreciation expense allowed to any pass-through entity in which 3408
the taxpayer has a direct or indirect ownership interest. 3409

(iii) Subject to division (A)(20)(a)(v) of this section, for 3410
taxable years beginning in 2012 or thereafter, if the increase in 3411
income taxes withheld by the taxpayer is equal to or greater than 3412
ten per cent of income taxes withheld by the taxpayer during the 3413
taxpayer's immediately preceding taxable year, "two-thirds" shall 3414
be substituted for "five-sixths" for the purpose of divisions 3415
(A)(20)(a)(i) and (ii) of this section. 3416

(iv) Subject to division (A)(20)(a)(v) of this section, for 3417
taxable years beginning in 2012 or thereafter, a taxpayer is not 3418
required to add an amount under division (A)(20) of this section 3419
if the increase in income taxes withheld by the taxpayer and by 3420
any pass-through entity in which the taxpayer has a direct or 3421
indirect ownership interest is equal to or greater than the sum of 3422
(I) the amount of qualifying section 179 depreciation expense and 3423
(II) the amount of depreciation expense allowed to the taxpayer by 3424

subsection (k) of section 168 of the Internal Revenue Code, and 3425
including the taxpayer's proportionate or distributive shares of 3426
such amounts allowed to any such pass-through entities. 3427

(v) If a taxpayer directly or indirectly incurs a net 3428
operating loss for the taxable year for federal income tax 3429
purposes, to the extent such loss resulted from depreciation 3430
expense allowed by subsection (k) of section 168 of the Internal 3431
Revenue Code and by qualifying section 179 depreciation expense, 3432
"the entire" shall be substituted for "five-sixths of the" for the 3433
purpose of divisions (A)(20)(a)(i) and (ii) of this section. 3434

The tax commissioner, under procedures established by the 3435
commissioner, may waive the add-backs related to a pass-through 3436
entity if the taxpayer owns, directly or indirectly, less than 3437
five per cent of the pass-through entity. 3438

(b) Nothing in division (A)(20) of this section shall be 3439
construed to adjust or modify the adjusted basis of any asset. 3440

(c) To the extent the add-back required under division 3441
(A)(20)(a) of this section is attributable to property generating 3442
nonbusiness income or loss allocated under section 5747.20 of the 3443
Revised Code, the add-back shall be situated to the same location 3444
as the nonbusiness income or loss generated by the property for 3445
the purpose of determining the credit under division (A) of 3446
section 5747.05 of the Revised Code. Otherwise, the add-back shall 3447
be apportioned, subject to one or more of the four alternative 3448
methods of apportionment enumerated in section 5747.21 of the 3449
Revised Code. 3450

(d) For the purposes of division (A)(20)(a)(v) of this 3451
section, net operating loss carryback and carryforward shall not 3452
include the allowance of any net operating loss deduction 3453
carryback or carryforward to the taxable year to the extent such 3454
loss resulted from depreciation allowed by section 168(k) of the 3455

Internal Revenue Code and by the qualifying section 179 3456
depreciation expense amount. 3457

(e) For the purposes of divisions (A)(20) and (21) of this 3458
section: 3459

(i) "Income taxes withheld" means the total amount withheld 3460
and remitted under sections 5747.06 and 5747.07 of the Revised 3461
Code by an employer during the employer's taxable year. 3462

(ii) "Increase in income taxes withheld" means the amount by 3463
which the amount of income taxes withheld by an employer during 3464
the employer's current taxable year exceeds the amount of income 3465
taxes withheld by that employer during the employer's immediately 3466
preceding taxable year. 3467

(iii) "Qualifying section 179 depreciation expense" means the 3468
difference between (I) the amount of depreciation expense directly 3469
or indirectly allowed to a taxpayer under section 179 of the 3470
Internal Revised Code, and (II) the amount of depreciation expense 3471
directly or indirectly allowed to the taxpayer under section 179 3472
of the Internal Revenue Code as that section existed on December 3473
31, 2002. 3474

(21)(a) If the taxpayer was required to add an amount under 3475
division (A)(20)(a) of this section for a taxable year, deduct one 3476
of the following: 3477

(i) One-fifth of the amount so added for each of the five 3478
succeeding taxable years if the amount so added was five-sixths of 3479
qualifying section 179 depreciation expense or depreciation 3480
expense allowed by subsection (k) of section 168 of the Internal 3481
Revenue Code; 3482

(ii) One-half of the amount so added for each of the two 3483
succeeding taxable years if the amount so added was two-thirds of 3484
such depreciation expense; 3485

(iii) One-sixth of the amount so added for each of the six 3486
succeeding taxable years if the entire amount of such depreciation 3487
expense was so added. 3488

(b) If the amount deducted under division (A)(21)(a) of this 3489
section is attributable to an add-back allocated under division 3490
(A)(20)(c) of this section, the amount deducted shall be sitused 3491
to the same location. Otherwise, the add-back shall be apportioned 3492
using the apportionment factors for the taxable year in which the 3493
deduction is taken, subject to one or more of the four alternative 3494
methods of apportionment enumerated in section 5747.21 of the 3495
Revised Code. 3496

(c) No deduction is available under division (A)(21)(a) of 3497
this section with regard to any depreciation allowed by section 3498
168(k) of the Internal Revenue Code and by the qualifying section 3499
179 depreciation expense amount to the extent that such 3500
depreciation results in or increases a federal net operating loss 3501
carryback or carryforward. If no such deduction is available for a 3502
taxable year, the taxpayer may carry forward the amount not 3503
deducted in such taxable year to the next taxable year and add 3504
that amount to any deduction otherwise available under division 3505
(A)(21)(a) of this section for that next taxable year. The 3506
carryforward of amounts not so deducted shall continue until the 3507
entire addition required by division (A)(20)(a) of this section 3508
has been deducted. 3509

(d) No refund shall be allowed as a result of adjustments 3510
made by division (A)(21) of this section. 3511

(22) Deduct, to the extent not otherwise deducted or excluded 3512
in computing federal or Ohio adjusted gross income for the taxable 3513
year, the amount the taxpayer received during the taxable year as 3514
reimbursement for life insurance premiums under section 5919.31 of 3515
the Revised Code. 3516

(23) Deduct, to the extent not otherwise deducted or excluded 3517
in computing federal or Ohio adjusted gross income for the taxable 3518
year, the amount the taxpayer received during the taxable year as 3519
a death benefit paid by the adjutant general under section 5919.33 3520
of the Revised Code. 3521

(24) Deduct, to the extent included in federal adjusted gross 3522
income and not otherwise allowable as a deduction or exclusion in 3523
computing federal or Ohio adjusted gross income for the taxable 3524
year, military pay and allowances received by the taxpayer during 3525
the taxable year for active duty service in the United States 3526
army, air force, navy, marine corps, or coast guard or reserve 3527
components thereof or the national guard. The deduction may not be 3528
claimed for military pay and allowances received by the taxpayer 3529
while the taxpayer is stationed in this state. 3530

(25) Deduct, to the extent not otherwise allowable as a 3531
deduction or exclusion in computing federal or Ohio adjusted gross 3532
income for the taxable year and not otherwise compensated for by 3533
any other source, the amount of qualified organ donation expenses 3534
incurred by the taxpayer during the taxable year, not to exceed 3535
ten thousand dollars. A taxpayer may deduct qualified organ 3536
donation expenses only once for all taxable years beginning with 3537
taxable years beginning in 2007. 3538

For the purposes of division (A)(25) of this section: 3539

(a) "Human organ" means all or any portion of a human liver, 3540
pancreas, kidney, intestine, or lung, and any portion of human 3541
bone marrow. 3542

(b) "Qualified organ donation expenses" means travel 3543
expenses, lodging expenses, and wages and salary forgone by a 3544
taxpayer in connection with the taxpayer's donation, while living, 3545
of one or more of the taxpayer's human organs to another human 3546
being. 3547

(26) Deduct, to the extent not otherwise deducted or excluded 3548
in computing federal or Ohio adjusted gross income for the taxable 3549
year, amounts received by the taxpayer as retired military 3550
personnel pay for service in the United States army, navy, air 3551
force, coast guard, or marine corps or reserve components thereof, 3552
or the national guard, or received by the surviving spouse or 3553
former spouse of such a taxpayer under the survivor benefit plan 3554
on account of such a taxpayer's death. If the taxpayer receives 3555
income on account of retirement paid under the federal civil 3556
service retirement system or federal employees retirement system, 3557
or under any successor retirement program enacted by the congress 3558
of the United States that is established and maintained for 3559
retired employees of the United States government, and such 3560
retirement income is based, in whole or in part, on credit for the 3561
taxpayer's military service, the deduction allowed under this 3562
division shall include only that portion of such retirement income 3563
that is attributable to the taxpayer's military service, to the 3564
extent that portion of such retirement income is otherwise 3565
included in federal adjusted gross income and is not otherwise 3566
deducted under this section. Any amount deducted under division 3567
(A)(26) of this section is not included in a taxpayer's adjusted 3568
gross income for the purposes of section 5747.055 of the Revised 3569
Code. No amount may be deducted under division (A)(26) of this 3570
section on the basis of which a credit was claimed under section 3571
5747.055 of the Revised Code. 3572

(27) Deduct, to the extent not otherwise deducted or excluded 3573
in computing federal or Ohio adjusted gross income for the taxable 3574
year, the amount the taxpayer received during the taxable year 3575
from the military injury relief fund created in section 5101.98 of 3576
the Revised Code. 3577

(28) Deduct, to the extent not otherwise deducted or excluded 3578
in computing federal or Ohio adjusted gross income for the taxable 3579

year, the amount the taxpayer received as a veterans bonus during 3580
the taxable year from the Ohio department of veterans services as 3581
authorized by Section 2r of Article VIII, Ohio Constitution. 3582

(29) Deduct, to the extent not otherwise deducted or excluded 3583
in computing federal or Ohio adjusted gross income for the taxable 3584
year, any loss from wagering transactions that is allowed as an 3585
itemized deduction under section 165 of the Internal Revenue Code 3586
and that the taxpayer deducted in computing federal taxable 3587
income. 3588

(30) Deduct, to the extent not otherwise deducted or excluded 3589
in computing federal or Ohio adjusted gross income for the taxable 3590
year, any income ~~derived from providing public services under a~~ 3591
~~contract through a project owned by the state, as described in~~ 3592
~~section 126.604 of the Revised Code or~~ derived from a transfer 3593
agreement or from the enterprise transferred under that agreement 3594
under section 4313.02 of the Revised Code. 3595

(31) Deduct, to the extent not otherwise deducted or excluded 3596
in computing federal or Ohio adjusted gross income for the taxable 3597
year, Ohio college opportunity or federal Pell grant amounts 3598
received by the taxpayer or the taxpayer's spouse or dependent 3599
pursuant to section 3333.122 of the Revised Code or 20 U.S.C. 3600
1070a, et seq., and used to pay room or board furnished by the 3601
educational institution for which the grant was awarded at the 3602
institution's facilities, including meal plans administered by the 3603
institution. For the purposes of this division, receipt of a grant 3604
includes the distribution of a grant directly to an educational 3605
institution and the crediting of the grant to the enrollee's 3606
account with the institution. 3607

(B) "Business income" means income, including gain or loss, 3608
arising from transactions, activities, and sources in the regular 3609
course of a trade or business and includes income, gain, or loss 3610
from real property, tangible property, and intangible property if 3611

the acquisition, rental, management, and disposition of the 3612
property constitute integral parts of the regular course of a 3613
trade or business operation. "Business income" includes income, 3614
including gain or loss, from a partial or complete liquidation of 3615
a business, including, but not limited to, gain or loss from the 3616
sale or other disposition of goodwill. 3617

(C) "Nonbusiness income" means all income other than business 3618
income and may include, but is not limited to, compensation, rents 3619
and royalties from real or tangible personal property, capital 3620
gains, interest, dividends and distributions, patent or copyright 3621
royalties, or lottery winnings, prizes, and awards. 3622

(D) "Compensation" means any form of remuneration paid to an 3623
employee for personal services. 3624

(E) "Fiduciary" means a guardian, trustee, executor, 3625
administrator, receiver, conservator, or any other person acting 3626
in any fiduciary capacity for any individual, trust, or estate. 3627

(F) "Fiscal year" means an accounting period of twelve months 3628
ending on the last day of any month other than December. 3629

(G) "Individual" means any natural person. 3630

(H) "Internal Revenue Code" means the "Internal Revenue Code 3631
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 3632

(I) "Resident" means any of the following, provided that 3633
division (I)(3) of this section applies only to taxable years of a 3634
trust beginning in 2002 or thereafter: 3635

(1) An individual who is domiciled in this state, subject to 3636
section 5747.24 of the Revised Code; 3637

(2) The estate of a decedent who at the time of death was 3638
domiciled in this state. The domicile tests of section 5747.24 of 3639
the Revised Code are not controlling for purposes of division 3640
(I)(2) of this section. 3641

(3) A trust that, in whole or part, resides in this state. If 3642
only part of a trust resides in this state, the trust is a 3643
resident only with respect to that part. 3644

For the purposes of division (I)(3) of this section: 3645

(a) A trust resides in this state for the trust's current 3646
taxable year to the extent, as described in division (I)(3)(d) of 3647
this section, that the trust consists directly or indirectly, in 3648
whole or in part, of assets, net of any related liabilities, that 3649
were transferred, or caused to be transferred, directly or 3650
indirectly, to the trust by any of the following: 3651

(i) A person, a court, or a governmental entity or 3652
instrumentality on account of the death of a decedent, but only if 3653
the trust is described in division (I)(3)(e)(i) or (ii) of this 3654
section; 3655

(ii) A person who was domiciled in this state for the 3656
purposes of this chapter when the person directly or indirectly 3657
transferred assets to an irrevocable trust, but only if at least 3658
one of the trust's qualifying beneficiaries is domiciled in this 3659
state for the purposes of this chapter during all or some portion 3660
of the trust's current taxable year; 3661

(iii) A person who was domiciled in this state for the 3662
purposes of this chapter when the trust document or instrument or 3663
part of the trust document or instrument became irrevocable, but 3664
only if at least one of the trust's qualifying beneficiaries is a 3665
resident domiciled in this state for the purposes of this chapter 3666
during all or some portion of the trust's current taxable year. If 3667
a trust document or instrument became irrevocable upon the death 3668
of a person who at the time of death was domiciled in this state 3669
for purposes of this chapter, that person is a person described in 3670
division (I)(3)(a)(iii) of this section. 3671

(b) A trust is irrevocable to the extent that the transferor 3672

is not considered to be the owner of the net assets of the trust 3673
under sections 671 to 678 of the Internal Revenue Code. 3674

(c) With respect to a trust other than a charitable lead 3675
trust, "qualifying beneficiary" has the same meaning as "potential 3676
current beneficiary" as defined in section 1361(e)(2) of the 3677
Internal Revenue Code, and with respect to a charitable lead trust 3678
"qualifying beneficiary" is any current, future, or contingent 3679
beneficiary, but with respect to any trust "qualifying 3680
beneficiary" excludes a person or a governmental entity or 3681
instrumentality to any of which a contribution would qualify for 3682
the charitable deduction under section 170 of the Internal Revenue 3683
Code. 3684

(d) For the purposes of division (I)(3)(a) of this section, 3685
the extent to which a trust consists directly or indirectly, in 3686
whole or in part, of assets, net of any related liabilities, that 3687
were transferred directly or indirectly, in whole or part, to the 3688
trust by any of the sources enumerated in that division shall be 3689
ascertained by multiplying the fair market value of the trust's 3690
assets, net of related liabilities, by the qualifying ratio, which 3691
shall be computed as follows: 3692

(i) The first time the trust receives assets, the numerator 3693
of the qualifying ratio is the fair market value of those assets 3694
at that time, net of any related liabilities, from sources 3695
enumerated in division (I)(3)(a) of this section. The denominator 3696
of the qualifying ratio is the fair market value of all the 3697
trust's assets at that time, net of any related liabilities. 3698

(ii) Each subsequent time the trust receives assets, a 3699
revised qualifying ratio shall be computed. The numerator of the 3700
revised qualifying ratio is the sum of (1) the fair market value 3701
of the trust's assets immediately prior to the subsequent 3702
transfer, net of any related liabilities, multiplied by the 3703
qualifying ratio last computed without regard to the subsequent 3704

transfer, and (2) the fair market value of the subsequently 3705
transferred assets at the time transferred, net of any related 3706
liabilities, from sources enumerated in division (I)(3)(a) of this 3707
section. The denominator of the revised qualifying ratio is the 3708
fair market value of all the trust's assets immediately after the 3709
subsequent transfer, net of any related liabilities. 3710

(iii) Whether a transfer to the trust is by or from any of 3711
the sources enumerated in division (I)(3)(a) of this section shall 3712
be ascertained without regard to the domicile of the trust's 3713
beneficiaries. 3714

(e) For the purposes of division (I)(3)(a)(i) of this 3715
section: 3716

(i) A trust is described in division (I)(3)(e)(i) of this 3717
section if the trust is a testamentary trust and the testator of 3718
that testamentary trust was domiciled in this state at the time of 3719
the testator's death for purposes of the taxes levied under 3720
Chapter 5731. of the Revised Code. 3721

(ii) A trust is described in division (I)(3)(e)(ii) of this 3722
section if the transfer is a qualifying transfer described in any 3723
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 3724
irrevocable inter vivos trust, and at least one of the trust's 3725
qualifying beneficiaries is domiciled in this state for purposes 3726
of this chapter during all or some portion of the trust's current 3727
taxable year. 3728

(f) For the purposes of division (I)(3)(e)(ii) of this 3729
section, a "qualifying transfer" is a transfer of assets, net of 3730
any related liabilities, directly or indirectly to a trust, if the 3731
transfer is described in any of the following: 3732

(i) The transfer is made to a trust, created by the decedent 3733
before the decedent's death and while the decedent was domiciled 3734
in this state for the purposes of this chapter, and, prior to the 3735

death of the decedent, the trust became irrevocable while the 3736
decedent was domiciled in this state for the purposes of this 3737
chapter. 3738

(ii) The transfer is made to a trust to which the decedent, 3739
prior to the decedent's death, had directly or indirectly 3740
transferred assets, net of any related liabilities, while the 3741
decedent was domiciled in this state for the purposes of this 3742
chapter, and prior to the death of the decedent the trust became 3743
irrevocable while the decedent was domiciled in this state for the 3744
purposes of this chapter. 3745

(iii) The transfer is made on account of a contractual 3746
relationship existing directly or indirectly between the 3747
transferor and either the decedent or the estate of the decedent 3748
at any time prior to the date of the decedent's death, and the 3749
decedent was domiciled in this state at the time of death for 3750
purposes of the taxes levied under Chapter 5731. of the Revised 3751
Code. 3752

(iv) The transfer is made to a trust on account of a 3753
contractual relationship existing directly or indirectly between 3754
the transferor and another person who at the time of the 3755
decedent's death was domiciled in this state for purposes of this 3756
chapter. 3757

(v) The transfer is made to a trust on account of the will of 3758
a testator who was domiciled in this state at the time of the 3759
testator's death for purposes of the taxes levied under Chapter 3760
5731. of the Revised Code. 3761

(vi) The transfer is made to a trust created by or caused to 3762
be created by a court, and the trust was directly or indirectly 3763
created in connection with or as a result of the death of an 3764
individual who, for purposes of the taxes levied under Chapter 3765
5731. of the Revised Code, was domiciled in this state at the time 3766

of the individual's death. 3767

(g) The tax commissioner may adopt rules to ascertain the 3768
part of a trust residing in this state. 3769

(J) "Nonresident" means an individual or estate that is not a 3770
resident. An individual who is a resident for only part of a 3771
taxable year is a nonresident for the remainder of that taxable 3772
year. 3773

(K) "Pass-through entity" has the same meaning as in section 3774
5733.04 of the Revised Code. 3775

(L) "Return" means the notifications and reports required to 3776
be filed pursuant to this chapter for the purpose of reporting the 3777
tax due and includes declarations of estimated tax when so 3778
required. 3779

(M) "Taxable year" means the calendar year or the taxpayer's 3780
fiscal year ending during the calendar year, or fractional part 3781
thereof, upon which the adjusted gross income is calculated 3782
pursuant to this chapter. 3783

(N) "Taxpayer" means any person subject to the tax imposed by 3784
section 5747.02 of the Revised Code or any pass-through entity 3785
that makes the election under division (D) of section 5747.08 of 3786
the Revised Code. 3787

(O) "Dependents" means dependents as defined in the Internal 3788
Revenue Code and as claimed in the taxpayer's federal income tax 3789
return for the taxable year or which the taxpayer would have been 3790
permitted to claim had the taxpayer filed a federal income tax 3791
return. 3792

(P) "Principal county of employment" means, in the case of a 3793
nonresident, the county within the state in which a taxpayer 3794
performs services for an employer or, if those services are 3795
performed in more than one county, the county in which the major 3796

portion of the services are performed. 3797

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code: 3798
3799

(1) "Subdivision" means any county, municipal corporation, park district, or township. 3800
3801

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution. 3802
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(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax. 3806
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(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows: 3808
3809
3810

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section: 3811
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(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year; 3819
3820
3821

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year. 3822
3823

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, 3824
3825
3826

instrumentality, territory, or possession of the United States to 3827
the extent that the interest or dividends are exempt from federal 3828
income taxes but not from state income taxes, but only to the 3829
extent that such net amount is not otherwise includible in Ohio 3830
taxable income and is described in either division (S)(1)(a) or 3831
(b) of this section; 3832

(3) Add the amount of personal exemption allowed to the 3833
estate pursuant to section 642(b) of the Internal Revenue Code; 3834

(4) Deduct interest or dividends, net of related expenses 3835
deducted in computing federal taxable income, on obligations of 3836
the United States and its territories and possessions or of any 3837
authority, commission, or instrumentality of the United States to 3838
the extent that the interest or dividends are exempt from state 3839
taxes under the laws of the United States, but only to the extent 3840
that such amount is included in federal taxable income and is 3841
described in either division (S)(1)(a) or (b) of this section; 3842

(5) Deduct the amount of wages and salaries, if any, not 3843
otherwise allowable as a deduction but that would have been 3844
allowable as a deduction in computing federal taxable income for 3845
the taxable year, had the targeted jobs credit allowed under 3846
sections 38, 51, and 52 of the Internal Revenue Code not been in 3847
effect, but only to the extent such amount relates either to 3848
income included in federal taxable income for the taxable year or 3849
to income of the S portion of an electing small business trust for 3850
the taxable year; 3851

(6) Deduct any interest or interest equivalent, net of 3852
related expenses deducted in computing federal taxable income, on 3853
public obligations and purchase obligations, but only to the 3854
extent that such net amount relates either to income included in 3855
federal taxable income for the taxable year or to income of the S 3856
portion of an electing small business trust for the taxable year; 3857

(7) Add any loss or deduct any gain resulting from sale, 3858
exchange, or other disposition of public obligations to the extent 3859
that such loss has been deducted or such gain has been included in 3860
computing either federal taxable income or income of the S portion 3861
of an electing small business trust for the taxable year; 3862

(8) Except in the case of the final return of an estate, add 3863
any amount deducted by the taxpayer on both its Ohio estate tax 3864
return pursuant to section 5731.14 of the Revised Code, and on its 3865
federal income tax return in determining federal taxable income; 3866

(9)(a) Deduct any amount included in federal taxable income 3867
solely because the amount represents a reimbursement or refund of 3868
expenses that in a previous year the decedent had deducted as an 3869
itemized deduction pursuant to section 63 of the Internal Revenue 3870
Code and applicable treasury regulations. The deduction otherwise 3871
allowed under division (S)(9)(a) of this section shall be reduced 3872
to the extent the reimbursement is attributable to an amount the 3873
taxpayer or decedent deducted under this section in any taxable 3874
year. 3875

(b) Add any amount not otherwise included in Ohio taxable 3876
income for any taxable year to the extent that the amount is 3877
attributable to the recovery during the taxable year of any amount 3878
deducted or excluded in computing federal or Ohio taxable income 3879
in any taxable year, but only to the extent such amount has not 3880
been distributed to beneficiaries for the taxable year. 3881

(10) Deduct any portion of the deduction described in section 3882
1341(a)(2) of the Internal Revenue Code, for repaying previously 3883
reported income received under a claim of right, that meets both 3884
of the following requirements: 3885

(a) It is allowable for repayment of an item that was 3886
included in the taxpayer's taxable income or the decedent's 3887
adjusted gross income for a prior taxable year and did not qualify 3888

for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of

this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the

taxpayer's taxable year. 3950

(AA)(1) "Eligible institution" means a state university or 3951
state institution of higher education as defined in section 3952
3345.011 of the Revised Code, or a private, nonprofit college, 3953
university, or other post-secondary institution located in this 3954
state that possesses a certificate of authorization issued by the 3955
Ohio board of regents pursuant to Chapter 1713. of the Revised 3956
Code or a certificate of registration issued by the state board of 3957
career colleges and schools under Chapter 3332. of the Revised 3958
Code. 3959

(2) "Qualified tuition and fees" means tuition and fees 3960
imposed by an eligible institution as a condition of enrollment or 3961
attendance, not exceeding two thousand five hundred dollars in 3962
each of the individual's first two years of post-secondary 3963
education. If the individual is a part-time student, "qualified 3964
tuition and fees" includes tuition and fees paid for the academic 3965
equivalent of the first two years of post-secondary education 3966
during a maximum of five taxable years, not exceeding a total of 3967
five thousand dollars. "Qualified tuition and fees" does not 3968
include: 3969

(a) Expenses for any course or activity involving sports, 3970
games, or hobbies unless the course or activity is part of the 3971
individual's degree or diploma program; 3972

(b) The cost of books, room and board, student activity fees, 3973
athletic fees, insurance expenses, or other expenses unrelated to 3974
the individual's academic course of instruction; 3975

(c) Tuition, fees, or other expenses paid or reimbursed 3976
through an employer, scholarship, grant in aid, or other 3977
educational benefit program. 3978

(BB)(1) "Modified business income" means the business income 3979
included in a trust's Ohio taxable income after such taxable 3980

income is first reduced by the qualifying trust amount, if any. 3981

(2) "Qualifying trust amount" of a trust means capital gains 3982
and losses from the sale, exchange, or other disposition of equity 3983
or ownership interests in, or debt obligations of, a qualifying 3984
investee to the extent included in the trust's Ohio taxable 3985
income, but only if the following requirements are satisfied: 3986

(a) The book value of the qualifying investee's physical 3987
assets in this state and everywhere, as of the last day of the 3988
qualifying investee's fiscal or calendar year ending immediately 3989
prior to the date on which the trust recognizes the gain or loss, 3990
is available to the trust. 3991

(b) The requirements of section 5747.011 of the Revised Code 3992
are satisfied for the trust's taxable year in which the trust 3993
recognizes the gain or loss. 3994

Any gain or loss that is not a qualifying trust amount is 3995
modified business income, qualifying investment income, or 3996
modified nonbusiness income, as the case may be. 3997

(3) "Modified nonbusiness income" means a trust's Ohio 3998
taxable income other than modified business income, other than the 3999
qualifying trust amount, and other than qualifying investment 4000
income, as defined in section 5747.012 of the Revised Code, to the 4001
extent such qualifying investment income is not otherwise part of 4002
modified business income. 4003

(4) "Modified Ohio taxable income" applies only to trusts, 4004
and means the sum of the amounts described in divisions (BB)(4)(a) 4005
to (c) of this section: 4006

(a) The fraction, calculated under section 5747.013, and 4007
applying section 5747.231 of the Revised Code, multiplied by the 4008
sum of the following amounts: 4009

(i) The trust's modified business income; 4010

(ii) The trust's qualifying investment income, as defined in 4011
section 5747.012 of the Revised Code, but only to the extent the 4012
qualifying investment income does not otherwise constitute 4013
modified business income and does not otherwise constitute a 4014
qualifying trust amount. 4015

(b) The qualifying trust amount multiplied by a fraction, the 4016
numerator of which is the sum of the book value of the qualifying 4017
investee's physical assets in this state on the last day of the 4018
qualifying investee's fiscal or calendar year ending immediately 4019
prior to the day on which the trust recognizes the qualifying 4020
trust amount, and the denominator of which is the sum of the book 4021
value of the qualifying investee's total physical assets 4022
everywhere on the last day of the qualifying investee's fiscal or 4023
calendar year ending immediately prior to the day on which the 4024
trust recognizes the qualifying trust amount. If, for a taxable 4025
year, the trust recognizes a qualifying trust amount with respect 4026
to more than one qualifying investee, the amount described in 4027
division (BB)(4)(b) of this section shall equal the sum of the 4028
products so computed for each such qualifying investee. 4029

(c)(i) With respect to a trust or portion of a trust that is 4030
a resident as ascertained in accordance with division (I)(3)(d) of 4031
this section, its modified nonbusiness income. 4032

(ii) With respect to a trust or portion of a trust that is 4033
not a resident as ascertained in accordance with division 4034
(I)(3)(d) of this section, the amount of its modified nonbusiness 4035
income satisfying the descriptions in divisions (B)(2) to (5) of 4036
section 5747.20 of the Revised Code, except as otherwise provided 4037
in division (BB)(4)(c)(ii) of this section. With respect to a 4038
trust or portion of a trust that is not a resident as ascertained 4039
in accordance with division (I)(3)(d) of this section, the trust's 4040
portion of modified nonbusiness income recognized from the sale, 4041
exchange, or other disposition of a debt interest in or equity 4042

interest in a section 5747.212 entity, as defined in section 4043
5747.212 of the Revised Code, without regard to division (A) of 4044
that section, shall not be allocated to this state in accordance 4045
with section 5747.20 of the Revised Code but shall be apportioned 4046
to this state in accordance with division (B) of section 5747.212 4047
of the Revised Code without regard to division (A) of that 4048
section. 4049

If the allocation and apportionment of a trust's income under 4050
divisions (BB)(4)(a) and (c) of this section do not fairly 4051
represent the modified Ohio taxable income of the trust in this 4052
state, the alternative methods described in division (C) of 4053
section 5747.21 of the Revised Code may be applied in the manner 4054
and to the same extent provided in that section. 4055

(5)(a) Except as set forth in division (BB)(5)(b) of this 4056
section, "qualifying investee" means a person in which a trust has 4057
an equity or ownership interest, or a person or unit of government 4058
the debt obligations of either of which are owned by a trust. For 4059
the purposes of division (BB)(2)(a) of this section and for the 4060
purpose of computing the fraction described in division (BB)(4)(b) 4061
of this section, all of the following apply: 4062

(i) If the qualifying investee is a member of a qualifying 4063
controlled group on the last day of the qualifying investee's 4064
fiscal or calendar year ending immediately prior to the date on 4065
which the trust recognizes the gain or loss, then "qualifying 4066
investee" includes all persons in the qualifying controlled group 4067
on such last day. 4068

(ii) If the qualifying investee, or if the qualifying 4069
investee and any members of the qualifying controlled group of 4070
which the qualifying investee is a member on the last day of the 4071
qualifying investee's fiscal or calendar year ending immediately 4072
prior to the date on which the trust recognizes the gain or loss, 4073
separately or cumulatively own, directly or indirectly, on the 4074

last day of the qualifying investee's fiscal or calendar year 4075
ending immediately prior to the date on which the trust recognizes 4076
the qualifying trust amount, more than fifty per cent of the 4077
equity of a pass-through entity, then the qualifying investee and 4078
the other members are deemed to own the proportionate share of the 4079
pass-through entity's physical assets which the pass-through 4080
entity directly or indirectly owns on the last day of the 4081
pass-through entity's calendar or fiscal year ending within or 4082
with the last day of the qualifying investee's fiscal or calendar 4083
year ending immediately prior to the date on which the trust 4084
recognizes the qualifying trust amount. 4085

(iii) For the purposes of division (BB)(5)(a)(iii) of this 4086
section, "upper level pass-through entity" means a pass-through 4087
entity directly or indirectly owning any equity of another 4088
pass-through entity, and "lower level pass-through entity" means 4089
that other pass-through entity. 4090

An upper level pass-through entity, whether or not it is also 4091
a qualifying investee, is deemed to own, on the last day of the 4092
upper level pass-through entity's calendar or fiscal year, the 4093
proportionate share of the lower level pass-through entity's 4094
physical assets that the lower level pass-through entity directly 4095
or indirectly owns on the last day of the lower level pass-through 4096
entity's calendar or fiscal year ending within or with the last 4097
day of the upper level pass-through entity's fiscal or calendar 4098
year. If the upper level pass-through entity directly and 4099
indirectly owns less than fifty per cent of the equity of the 4100
lower level pass-through entity on each day of the upper level 4101
pass-through entity's calendar or fiscal year in which or with 4102
which ends the calendar or fiscal year of the lower level 4103
pass-through entity and if, based upon clear and convincing 4104
evidence, complete information about the location and cost of the 4105
physical assets of the lower pass-through entity is not available 4106

to the upper level pass-through entity, then solely for purposes 4107
of ascertaining if a gain or loss constitutes a qualifying trust 4108
amount, the upper level pass-through entity shall be deemed as 4109
owning no equity of the lower level pass-through entity for each 4110
day during the upper level pass-through entity's calendar or 4111
fiscal year in which or with which ends the lower level 4112
pass-through entity's calendar or fiscal year. Nothing in division 4113
(BB)(5)(a)(iii) of this section shall be construed to provide for 4114
any deduction or exclusion in computing any trust's Ohio taxable 4115
income. 4116

(b) With respect to a trust that is not a resident for the 4117
taxable year and with respect to a part of a trust that is not a 4118
resident for the taxable year, "qualifying investee" for that 4119
taxable year does not include a C corporation if both of the 4120
following apply: 4121

(i) During the taxable year the trust or part of the trust 4122
recognizes a gain or loss from the sale, exchange, or other 4123
disposition of equity or ownership interests in, or debt 4124
obligations of, the C corporation. 4125

(ii) Such gain or loss constitutes nonbusiness income. 4126

(6) "Available" means information is such that a person is 4127
able to learn of the information by the due date plus extensions, 4128
if any, for filing the return for the taxable year in which the 4129
trust recognizes the gain or loss. 4130

(CC) "Qualifying controlled group" has the same meaning as in 4131
section 5733.04 of the Revised Code. 4132

(DD) "Related member" has the same meaning as in section 4133
5733.042 of the Revised Code. 4134

(EE)(1) For the purposes of division (EE) of this section: 4135

(a) "Qualifying person" means any person other than a 4136

qualifying corporation. 4137

(b) "Qualifying corporation" means any person classified for 4138
federal income tax purposes as an association taxable as a 4139
corporation, except either of the following: 4140

(i) A corporation that has made an election under subchapter 4141
S, chapter one, subtitle A, of the Internal Revenue Code for its 4142
taxable year ending within, or on the last day of, the investor's 4143
taxable year; 4144

(ii) A subsidiary that is wholly owned by any corporation 4145
that has made an election under subchapter S, chapter one, 4146
subtitle A of the Internal Revenue Code for its taxable year 4147
ending within, or on the last day of, the investor's taxable year. 4148

(2) For the purposes of this chapter, unless expressly stated 4149
otherwise, no qualifying person indirectly owns any asset directly 4150
or indirectly owned by any qualifying corporation. 4151

(FF) For purposes of this chapter and Chapter 5751. of the 4152
Revised Code: 4153

(1) "Trust" does not include a qualified pre-income tax 4154
trust. 4155

(2) A "qualified pre-income tax trust" is any pre-income tax 4156
trust that makes a qualifying pre-income tax trust election as 4157
described in division (FF)(3) of this section. 4158

(3) A "qualifying pre-income tax trust election" is an 4159
election by a pre-income tax trust to subject to the tax imposed 4160
by section 5751.02 of the Revised Code the pre-income tax trust 4161
and all pass-through entities of which the trust owns or controls, 4162
directly, indirectly, or constructively through related interests, 4163
five per cent or more of the ownership or equity interests. The 4164
trustee shall notify the tax commissioner in writing of the 4165
election on or before April 15, 2006. The election, if timely 4166

made, shall be effective on and after January 1, 2006, and shall 4167
apply for all tax periods and tax years until revoked by the 4168
trustee of the trust. 4169

(4) A "pre-income tax trust" is a trust that satisfies all of 4170
the following requirements: 4171

(a) The document or instrument creating the trust was 4172
executed by the grantor before January 1, 1972; 4173

(b) The trust became irrevocable upon the creation of the 4174
trust; and 4175

(c) The grantor was domiciled in this state at the time the 4176
trust was created. 4177

Sec. 5751.01. As used in this chapter: 4178

(A) "Person" means, but is not limited to, individuals, 4179
combinations of individuals of any form, receivers, assignees, 4180
trustees in bankruptcy, firms, companies, joint-stock companies, 4181
business trusts, estates, partnerships, limited liability 4182
partnerships, limited liability companies, associations, joint 4183
ventures, clubs, societies, for-profit corporations, S 4184
corporations, qualified subchapter S subsidiaries, qualified 4185
subchapter S trusts, trusts, entities that are disregarded for 4186
federal income tax purposes, and any other entities. 4187

(B) "Consolidated elected taxpayer" means a group of two or 4188
more persons treated as a single taxpayer for purposes of this 4189
chapter as the result of an election made under section 5751.011 4190
of the Revised Code. 4191

(C) "Combined taxpayer" means a group of two or more persons 4192
treated as a single taxpayer for purposes of this chapter under 4193
section 5751.012 of the Revised Code. 4194

(D) "Taxpayer" means any person, or any group of persons in 4195
the case of a consolidated elected taxpayer or combined taxpayer 4196

treated as one taxpayer, required to register or pay tax under 4197
this chapter. "Taxpayer" does not include excluded persons. 4198

(E) "Excluded person" means any of the following: 4199

(1) Any person with not more than one hundred fifty thousand 4200
dollars of taxable gross receipts during the calendar year. 4201

Division (E)(1) of this section does not apply to a person that is 4202
a member of a consolidated elected taxpayer; 4203

(2) A public utility that paid the excise tax imposed by 4204
section 5727.24 or 5727.30 of the Revised Code based on one or 4205
more measurement periods that include the entire tax period under 4206
this chapter, except that a public utility that is a combined 4207
company is a taxpayer with regard to the following gross receipts: 4208

(a) Taxable gross receipts directly attributed to a public 4209
utility activity, but not directly attributed to an activity that 4210
is subject to the excise tax imposed by section 5727.24 or 5727.30 4211
of the Revised Code; 4212

(b) Taxable gross receipts that cannot be directly attributed 4213
to any activity, multiplied by a fraction whose numerator is the 4214
taxable gross receipts described in division (E)(2)(a) of this 4215
section and whose denominator is the total taxable gross receipts 4216
that can be directly attributed to any activity; 4217

(c) Except for any differences resulting from the use of an 4218
accrual basis method of accounting for purposes of determining 4219
gross receipts under this chapter and the use of the cash basis 4220
method of accounting for purposes of determining gross receipts 4221
under section 5727.24 of the Revised Code, the gross receipts 4222
directly attributed to the activity of a natural gas company shall 4223
be determined in a manner consistent with division (D) of section 4224
5727.03 of the Revised Code. 4225

As used in division (E)(2) of this section, "combined 4226
company" and "public utility" have the same meanings as in section 4227

5727.01 of the Revised Code. 4228

(3) A financial institution, as defined in section 5726.01 of 4229
the Revised Code, that paid the tax imposed by section 5726.02 of 4230
the Revised Code based on one or more taxable years that include 4231
the entire tax period under this chapter; 4232

(4) A person directly or indirectly owned by one or more 4233
financial institutions, as defined in section 5726.01 of the 4234
Revised Code, that paid the tax imposed by section 5726.02 of the 4235
Revised Code based on one or more taxable years that include the 4236
entire tax period under this chapter. 4237

For the purposes of division (E)(4) of this section, a person 4238
owns another person under the following circumstances: 4239

(a) In the case of corporations issuing capital stock, one 4240
corporation owns another corporation if it owns fifty per cent or 4241
more of the other corporation's capital stock with current voting 4242
rights; 4243

(b) In the case of a limited liability company, one person 4244
owns the company if that person's membership interest, as defined 4245
in section 1705.01 of the Revised Code, is fifty per cent or more 4246
of the combined membership interests of all persons owning such 4247
interests in the company; 4248

(c) In the case of a partnership, trust, or other 4249
unincorporated business organization other than a limited 4250
liability company, one person owns the organization if, under the 4251
articles of organization or other instrument governing the affairs 4252
of the organization, that person has a beneficial interest in the 4253
organization's profits, surpluses, losses, or distributions of 4254
fifty per cent or more of the combined beneficial interests of all 4255
persons having such an interest in the organization. 4256

(5) A domestic insurance company or foreign insurance 4257
company, as defined in section 5725.01 of the Revised Code, that 4258

paid the insurance company premiums tax imposed by section 5725.18 4259
or Chapter 5729. of the Revised Code, or an unauthorized insurance 4260
company whose gross premiums are subject to tax under section 4261
3905.36 of the Revised Code based on one or more measurement 4262
periods that include the entire tax period under this chapter; 4263

(6) A person that solely facilitates or services one or more 4264
securitizations of phase-in-recovery property pursuant to a final 4265
financing order as those terms are defined in section 4928.23 of 4266
the Revised Code. For purposes of this division, "securitization" 4267
means transferring one or more assets to one or more persons and 4268
then issuing securities backed by the right to receive payment 4269
from the asset or assets so transferred. 4270

(7) Except as otherwise provided in this division, a 4271
pre-income tax trust as defined in division (FF)(4) of section 4272
5747.01 of the Revised Code and any pass-through entity of which 4273
such pre-income tax trust owns or controls, directly, indirectly, 4274
or constructively through related interests, more than five per 4275
cent of the ownership or equity interests. If the pre-income tax 4276
trust has made a qualifying pre-income tax trust election under 4277
division (FF)(3) of section 5747.01 of the Revised Code, then the 4278
trust and the pass-through entities of which it owns or controls, 4279
directly, indirectly, or constructively through related interests, 4280
more than five per cent of the ownership or equity interests, 4281
shall not be excluded persons for purposes of the tax imposed 4282
under section 5751.02 of the Revised Code. 4283

(8) Nonprofit organizations or the state and its agencies, 4284
instrumentalities, or political subdivisions. 4285

(F) Except as otherwise provided in divisions (F)(2), (3), 4286
and (4) of this section, "gross receipts" means the total amount 4287
realized by a person, without deduction for the cost of goods sold 4288
or other expenses incurred, that contributes to the production of 4289
gross income of the person, including the fair market value of any 4290

property and any services received, and any debt transferred or	4291
forgiven as consideration.	4292
(1) The following are examples of gross receipts:	4293
(a) Amounts realized from the sale, exchange, or other	4294
disposition of the taxpayer's property to or with another;	4295
(b) Amounts realized from the taxpayer's performance of	4296
services for another;	4297
(c) Amounts realized from another's use or possession of the	4298
taxpayer's property or capital;	4299
(d) Any combination of the foregoing amounts.	4300
(2) "Gross receipts" excludes the following amounts:	4301
(a) Interest income except interest on credit sales;	4302
(b) Dividends and distributions from corporations, and	4303
distributive or proportionate shares of receipts and income from a	4304
pass-through entity as defined under section 5733.04 of the	4305
Revised Code;	4306
(c) Receipts from the sale, exchange, or other disposition of	4307
an asset described in section 1221 or 1231 of the Internal Revenue	4308
Code, without regard to the length of time the person held the	4309
asset. Notwithstanding section 1221 of the Internal Revenue Code,	4310
receipts from hedging transactions also are excluded to the extent	4311
the transactions are entered into primarily to protect a financial	4312
position, such as managing the risk of exposure to (i) foreign	4313
currency fluctuations that affect assets, liabilities, profits,	4314
losses, equity, or investments in foreign operations; (ii)	4315
interest rate fluctuations; or (iii) commodity price fluctuations.	4316
As used in division (F)(2)(c) of this section, "hedging	4317
transaction" has the same meaning as used in section 1221 of the	4318
Internal Revenue Code and also includes transactions accorded	4319
hedge accounting treatment under statement of financial accounting	4320

standards number 133 of the financial accounting standards board. 4321

For the purposes of division (F)(2)(c) of this section, the actual 4322
transfer of title of real or tangible personal property to another 4323
entity is not a hedging transaction. 4324

(d) Proceeds received attributable to the repayment, 4325
maturity, or redemption of the principal of a loan, bond, mutual 4326
fund, certificate of deposit, or marketable instrument; 4327

(e) The principal amount received under a repurchase 4328
agreement or on account of any transaction properly characterized 4329
as a loan to the person; 4330

(f) Contributions received by a trust, plan, or other 4331
arrangement, any of which is described in section 501(a) of the 4332
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 4333
1, Subchapter (D) of the Internal Revenue Code applies; 4334

(g) Compensation, whether current or deferred, and whether in 4335
cash or in kind, received or to be received by an employee, former 4336
employee, or the employee's legal successor for services rendered 4337
to or for an employer, including reimbursements received by or for 4338
an individual for medical or education expenses, health insurance 4339
premiums, or employee expenses, or on account of a dependent care 4340
spending account, legal services plan, any cafeteria plan 4341
described in section 125 of the Internal Revenue Code, or any 4342
similar employee reimbursement; 4343

(h) Proceeds received from the issuance of the taxpayer's own 4344
stock, options, warrants, puts, or calls, or from the sale of the 4345
taxpayer's treasury stock; 4346

(i) Proceeds received on the account of payments from 4347
insurance policies, except those proceeds received for the loss of 4348
business revenue; 4349

(j) Gifts or charitable contributions received; membership 4350
dues received by trade, professional, homeowners', or condominium 4351

associations; and payments received for educational courses, 4352
meetings, meals, or similar payments to a trade, professional, or 4353
other similar association; and fundraising receipts received by 4354
any person when any excess receipts are donated or used 4355
exclusively for charitable purposes; 4356

(k) Damages received as the result of litigation in excess of 4357
amounts that, if received without litigation, would be gross 4358
receipts; 4359

(l) Property, money, and other amounts received or acquired 4360
by an agent on behalf of another in excess of the agent's 4361
commission, fee, or other remuneration; 4362

(m) Tax refunds, other tax benefit recoveries, and 4363
reimbursements for the tax imposed under this chapter made by 4364
entities that are part of the same combined taxpayer or 4365
consolidated elected taxpayer group, and reimbursements made by 4366
entities that are not members of a combined taxpayer or 4367
consolidated elected taxpayer group that are required to be made 4368
for economic parity among multiple owners of an entity whose tax 4369
obligation under this chapter is required to be reported and paid 4370
entirely by one owner, pursuant to the requirements of sections 4371
5751.011 and 5751.012 of the Revised Code; 4372

(n) Pension reversions; 4373

(o) Contributions to capital; 4374

(p) Sales or use taxes collected as a vendor or an 4375
out-of-state seller on behalf of the taxing jurisdiction from a 4376
consumer or other taxes the taxpayer is required by law to collect 4377
directly from a purchaser and remit to a local, state, or federal 4378
tax authority; 4379

(q) In the case of receipts from the sale of cigarettes or 4380
tobacco products by a wholesale dealer, retail dealer, 4381
distributor, manufacturer, or seller, all as defined in section 4382

5743.01 of the Revised Code, an amount equal to the federal and 4383
state excise taxes paid by any person on or for such cigarettes or 4384
tobacco products under subtitle E of the Internal Revenue Code or 4385
Chapter 5743. of the Revised Code; 4386

(r) In the case of receipts from the sale of motor fuel by a 4387
licensed motor fuel dealer, licensed retail dealer, or licensed 4388
permissive motor fuel dealer, all as defined in section 5735.01 of 4389
the Revised Code, an amount equal to federal and state excise 4390
taxes paid by any person on such motor fuel under section 4081 of 4391
the Internal Revenue Code or Chapter 5735. of the Revised Code; 4392

(s) In the case of receipts from the sale of beer or 4393
intoxicating liquor, as defined in section 4301.01 of the Revised 4394
Code, by a person holding a permit issued under Chapter 4301. or 4395
4303. of the Revised Code, an amount equal to federal and state 4396
excise taxes paid by any person on or for such beer or 4397
intoxicating liquor under subtitle E of the Internal Revenue Code 4398
or Chapter 4301. or 4305. of the Revised Code; 4399

(t) Receipts realized by a new motor vehicle dealer or used 4400
motor vehicle dealer, as defined in section 4517.01 of the Revised 4401
Code, from the sale or other transfer of a motor vehicle, as 4402
defined in that section, to another motor vehicle dealer for the 4403
purpose of resale by the transferee motor vehicle dealer, but only 4404
if the sale or other transfer was based upon the transferee's need 4405
to meet a specific customer's preference for a motor vehicle; 4406

(u) Receipts from a financial institution described in 4407
division (E)(3) of this section for services provided to the 4408
financial institution in connection with the issuance, processing, 4409
servicing, and management of loans or credit accounts, if such 4410
financial institution and the recipient of such receipts have at 4411
least fifty per cent of their ownership interests owned or 4412
controlled, directly or constructively through related interests, 4413
by common owners; 4414

(v) Receipts realized from administering anti-neoplastic 4415
drugs and other cancer chemotherapy, biologicals, therapeutic 4416
agents, and supportive drugs in a physician's office to patients 4417
with cancer; 4418

(w) Funds received or used by a mortgage broker that is not a 4419
dealer in intangibles, other than fees or other consideration, 4420
pursuant to a table-funding mortgage loan or warehouse-lending 4421
mortgage loan. Terms used in division (F)(2)(w) of this section 4422
have the same meanings as in section 1322.01 of the Revised Code, 4423
except "mortgage broker" means a person assisting a buyer in 4424
obtaining a mortgage loan for a fee or other consideration paid by 4425
the buyer or a lender, or a person engaged in table-funding or 4426
warehouse-lending mortgage loans that are first lien mortgage 4427
loans. 4428

(x) Property, money, and other amounts received by a 4429
professional employer organization, as defined in section 4125.01 4430
of the Revised Code, from a client employer, as defined in that 4431
section, in excess of the administrative fee charged by the 4432
professional employer organization to the client employer; 4433

(y) In the case of amounts retained as commissions by a 4434
permit holder under Chapter 3769. of the Revised Code, an amount 4435
equal to the amounts specified under that chapter that must be 4436
paid to or collected by the tax commissioner as a tax and the 4437
amounts specified under that chapter to be used as purse money; 4438

(z) Qualifying distribution center receipts. 4439

(i) For purposes of division (F)(2)(z) of this section: 4440

(I) "Qualifying distribution center receipts" means receipts 4441
of a supplier from qualified property that is delivered to a 4442
qualified distribution center, multiplied by a quantity that 4443
equals one minus the Ohio delivery percentage. If the qualified 4444
distribution center is a refining facility, "supplier" includes 4445

all dealers, brokers, processors, sellers, vendors, cosigners, and 4446
distributors of qualified property. 4447

(II) "Qualified property" means tangible personal property 4448
delivered to a qualified distribution center that is shipped to 4449
that qualified distribution center solely for further shipping by 4450
the qualified distribution center to another location in this 4451
state or elsewhere or, in the case of gold, silver, platinum, or 4452
palladium delivered to a refining facility solely for refining to 4453
a grade and fineness acceptable for delivery to a registered 4454
commodities exchange. "Further shipping" includes storing and 4455
repackaging property into smaller or larger bundles, so long as 4456
the property is not subject to further manufacturing or 4457
processing. "Refining" is limited to extracting impurities from 4458
gold, silver, platinum, or palladium through smelting or some 4459
other process at a refining facility. 4460

(III) "Qualified distribution center" means a warehouse, a 4461
facility similar to a warehouse, or a refining facility in this 4462
state that, for the qualifying year, is operated by a person that 4463
is not part of a combined taxpayer group and that has a qualifying 4464
certificate. All warehouses or facilities similar to warehouses 4465
that are operated by persons in the same taxpayer group and that 4466
are located within one mile of each other shall be treated as one 4467
qualified distribution center. All refining facilities that are 4468
operated by persons in the same taxpayer group and that are 4469
located in the same or adjacent counties may be treated as one 4470
qualified distribution center. 4471

(IV) "Qualifying year" means the calendar year to which the 4472
qualifying certificate applies. 4473

(V) "Qualifying period" means the period of the first day of 4474
July of the second year preceding the qualifying year through the 4475
thirtieth day of June of the year preceding the qualifying year. 4476

(VI) "Qualifying certificate" means the certificate issued by 4477
the tax commissioner after the operator of a distribution center 4478
files an annual application with the commissioner. The application 4479
and annual fee shall be filed and paid for each qualified 4480
distribution center on or before the first day of September before 4481
the qualifying year or within forty-five days after the 4482
distribution center opens, whichever is later. 4483

The applicant must substantiate to the commissioner's 4484
satisfaction that, for the qualifying period, all persons 4485
operating the distribution center have more than fifty per cent of 4486
the cost of the qualified property shipped to a location such that 4487
it would be situated outside this state under the provisions of 4488
division (E) of section 5751.033 of the Revised Code. The 4489
applicant must also substantiate that the distribution center 4490
cumulatively had costs from its suppliers equal to or exceeding 4491
five hundred million dollars during the qualifying period. (For 4492
purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" 4493
excludes any person that is part of the consolidated elected 4494
taxpayer group, if applicable, of the operator of the qualified 4495
distribution center.) The commissioner may require the applicant 4496
to have an independent certified public accountant certify that 4497
the calculation of the minimum thresholds required for a qualified 4498
distribution center by the operator of a distribution center has 4499
been made in accordance with generally accepted accounting 4500
principles. The commissioner shall issue or deny the issuance of a 4501
certificate within sixty days after the receipt of the 4502
application. A denial is subject to appeal under section 5717.02 4503
of the Revised Code. If the operator files a timely appeal under 4504
section 5717.02 of the Revised Code, the operator shall be granted 4505
a qualifying certificate, provided that the operator is liable for 4506
any tax, interest, or penalty upon amounts claimed as qualifying 4507
distribution center receipts, other than those receipts exempt 4508
under division (C)(1) of section 5751.011 of the Revised Code, 4509

that would have otherwise not been owed by its suppliers if the 4510
qualifying certificate was valid. 4511

(VII) "Ohio delivery percentage" means the proportion of the 4512
total property delivered to a destination inside Ohio from the 4513
qualified distribution center during the qualifying period 4514
compared with total deliveries from such distribution center 4515
everywhere during the qualifying period. 4516

(VIII) "Refining facility" means one or more buildings 4517
located in a county in the Appalachian region of this state as 4518
defined by section 107.21 of the Revised Code and utilized for 4519
refining or smelting gold, silver, platinum, or palladium to a 4520
grade and fineness acceptable for delivery to a registered 4521
commodities exchange. 4522

(IX) "Registered commodities exchange" means a board of 4523
trade, such as New York mercantile exchange, inc. or commodity 4524
exchange, inc., designated as a contract market by the commodity 4525
futures trading commission under the "Commodity Exchange Act," 7 4526
U.S.C. 1 et seq., as amended. 4527

(ii) If the distribution center is new and was not open for 4528
the entire qualifying period, the operator of the distribution 4529
center may request that the commissioner grant a qualifying 4530
certificate. If the certificate is granted and it is later 4531
determined that more than fifty per cent of the qualified property 4532
during that year was not shipped to a location such that it would 4533
be sitused outside of this state under the provisions of division 4534
(E) of section 5751.033 of the Revised Code or if it is later 4535
determined that the person that operates the distribution center 4536
had average monthly costs from its suppliers of less than forty 4537
million dollars during that year, then the operator of the 4538
distribution center shall be liable for any tax, interest, or 4539
penalty upon amounts claimed as qualifying distribution center 4540
receipts, other than those receipts exempt under division (C)(1) 4541

of section 5751.011 of the Revised Code, that would have not 4542
otherwise been owed by its suppliers during the qualifying year if 4543
the qualifying certificate was valid. (For purposes of division 4544
(F)(2)(z)(ii) of this section, "supplier" excludes any person that 4545
is part of the consolidated elected taxpayer group, if applicable, 4546
of the operator of the qualified distribution center.) 4547

(iii) When filing an application for a qualifying certificate 4548
under division (F)(2)(z)(i)(VI) of this section, the operator of a 4549
qualified distribution center also shall provide documentation, as 4550
the commissioner requires, for the commissioner to ascertain the 4551
Ohio delivery percentage. The commissioner, upon issuing the 4552
qualifying certificate, also shall certify the Ohio delivery 4553
percentage. The operator of the qualified distribution center may 4554
appeal the commissioner's certification of the Ohio delivery 4555
percentage in the same manner as an appeal is taken from the 4556
denial of a qualifying certificate under division (F)(2)(z)(i)(VI) 4557
of this section. 4558

Within thirty days after all appeals have been exhausted, the 4559
operator of the qualified distribution center shall notify the 4560
affected suppliers of qualified property that such suppliers are 4561
required to file, within sixty days after receiving notice from 4562
the operator of the qualified distribution center, amended reports 4563
for the impacted calendar quarter or quarters or calendar year, 4564
whichever the case may be. Any additional tax liability or tax 4565
overpayment shall be subject to interest but shall not be subject 4566
to the imposition of any penalty so long as the amended returns 4567
are timely filed. The supplier of tangible personal property 4568
delivered to the qualified distribution center shall include in 4569
its report of taxable gross receipts the receipts from the total 4570
sales of property delivered to the qualified distribution center 4571
for the calendar quarter or calendar year, whichever the case may 4572
be, multiplied by the Ohio delivery percentage for the qualifying 4573

year. Nothing in division (F)(2)(z)(iii) of this section shall be 4574
construed as imposing liability on the operator of a qualified 4575
distribution center for the tax imposed by this chapter arising 4576
from any change to the Ohio delivery percentage. 4577

(iv) In the case where the distribution center is new and not 4578
open for the entire qualifying period, the operator shall make a 4579
good faith estimate of an Ohio delivery percentage for use by 4580
suppliers in their reports of taxable gross receipts for the 4581
remainder of the qualifying period. The operator of the facility 4582
shall disclose to the suppliers that such Ohio delivery percentage 4583
is an estimate and is subject to recalculation. By the due date of 4584
the next application for a qualifying certificate, the operator 4585
shall determine the actual Ohio delivery percentage for the 4586
estimated qualifying period and proceed as provided in division 4587
(F)(2)(z)(iii) of this section with respect to the calculation and 4588
recalculation of the Ohio delivery percentage. The supplier is 4589
required to file, within sixty days after receiving notice from 4590
the operator of the qualified distribution center, amended reports 4591
for the impacted calendar quarter or quarters or calendar year, 4592
whichever the case may be. Any additional tax liability or tax 4593
overpayment shall be subject to interest but shall not be subject 4594
to the imposition of any penalty so long as the amended returns 4595
are timely filed. 4596

(v) Qualifying certificates and Ohio delivery percentages 4597
issued by the commissioner shall be open to public inspection and 4598
shall be timely published by the commissioner. A supplier relying 4599
in good faith on a certificate issued under this division shall 4600
not be subject to tax on the qualifying distribution center 4601
receipts under division (F)(2)(z) of this section. A person 4602
receiving a qualifying certificate is responsible for paying the 4603
tax, interest, and penalty upon amounts claimed as qualifying 4604
distribution center receipts that would not otherwise have been 4605

owed by the supplier if the qualifying certificate were available 4606
when it is later determined that the qualifying certificate should 4607
not have been issued because the statutory requirements were in 4608
fact not met. 4609

(vi) The annual fee for a qualifying certificate shall be one 4610
hundred thousand dollars for each qualified distribution center. 4611
If a qualifying certificate is not issued, the annual fee is 4612
subject to refund after the exhaustion of all appeals provided for 4613
in division (F)(2)(z)(i)(VI) of this section. The fee imposed 4614
under this division may be assessed in the same manner as the tax 4615
imposed under this chapter. The first one hundred thousand dollars 4616
of the annual application fees collected each calendar year shall 4617
be credited to the revenue enhancement fund. The remainder of the 4618
annual application fees collected shall be distributed in the same 4619
manner required under section 5751.20 of the Revised Code. 4620

(vii) The tax commissioner may require that adequate security 4621
be posted by the operator of the distribution center on appeal 4622
when the commissioner disagrees that the applicant has met the 4623
minimum thresholds for a qualified distribution center as set 4624
forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this 4625
section. 4626

(aa) Receipts of an employer from payroll deductions relating 4627
to the reimbursement of the employer for advancing moneys to an 4628
unrelated third party on an employee's behalf; 4629

(bb) Cash discounts allowed and taken; 4630

(cc) Returns and allowances; 4631

(dd) Bad debts from receipts on the basis of which the tax 4632
imposed by this chapter was paid in a prior quarterly tax payment 4633
period. For the purpose of this division, "bad debts" means any 4634
debts that have become worthless or uncollectible between the 4635
preceding and current quarterly tax payment periods, have been 4636

uncollected for at least six months, and that may be claimed as a 4637
deduction under section 166 of the Internal Revenue Code and the 4638
regulations adopted under that section, or that could be claimed 4639
as such if the taxpayer kept its accounts on the accrual basis. 4640
"Bad debts" does not include repossessed property, uncollectible 4641
amounts on property that remains in the possession of the taxpayer 4642
until the full purchase price is paid, or expenses in attempting 4643
to collect any account receivable or for any portion of the debt 4644
recovered; 4645

(ee) Any amount realized from the sale of an account 4646
receivable to the extent the receipts from the underlying 4647
transaction giving rise to the account receivable were included in 4648
the gross receipts of the taxpayer; 4649

(ff) Any receipts directly attributed ~~to providing public~~ 4650
~~services pursuant to sections 126.60 to 126.605 of the Revised~~ 4651
~~Code, or any receipts directly attributed~~ to a transfer agreement 4652
or to the enterprise transferred under that agreement under 4653
section 4313.02 of the Revised Code. 4654

(gg)(i) As used in this division: 4655

(I) "Qualified uranium receipts" means receipts from the 4656
sale, exchange, lease, loan, production, processing, or other 4657
disposition of uranium within a uranium enrichment zone certified 4658
by the tax commissioner under division (F)(2)(gg)(ii) of this 4659
section. "Qualified uranium receipts" does not include any 4660
receipts with a situs in this state outside a uranium enrichment 4661
zone certified by the tax commissioner under division 4662
(F)(2)(gg)(ii) of this section. 4663

(II) "Uranium enrichment zone" means all real property that 4664
is part of a uranium enrichment facility licensed by the United 4665
States nuclear regulatory commission and that was or is owned or 4666
controlled by the United States department of energy or its 4667

successor. 4668

(ii) Any person that owns, leases, or operates real or 4669
tangible personal property constituting or located within a 4670
uranium enrichment zone may apply to the tax commissioner to have 4671
the uranium enrichment zone certified for the purpose of excluding 4672
qualified uranium receipts under division (F)(2)(gg) of this 4673
section. The application shall include such information that the 4674
tax commissioner prescribes. Within sixty days after receiving the 4675
application, the tax commissioner shall certify the zone for that 4676
purpose if the commissioner determines that the property qualifies 4677
as a uranium enrichment zone as defined in division (F)(2)(gg) of 4678
this section, or, if the tax commissioner determines that the 4679
property does not qualify, the commissioner shall deny the 4680
application or request additional information from the applicant. 4681
If the tax commissioner denies an application, the commissioner 4682
shall state the reasons for the denial. The applicant may appeal 4683
the denial of an application to the board of tax appeals pursuant 4684
to section 5717.02 of the Revised Code. If the applicant files a 4685
timely appeal, the tax commissioner shall conditionally certify 4686
the applicant's property. The conditional certification shall 4687
expire when all of the applicant's appeals are exhausted. Until 4688
final resolution of the appeal, the applicant shall retain the 4689
applicant's records in accordance with section 5751.12 of the 4690
Revised Code, notwithstanding any time limit on the preservation 4691
of records under that section. 4692

(hh) Amounts realized by licensed motor fuel dealers or 4693
licensed permissive motor fuel dealers from the exchange of 4694
petroleum products, including motor fuel, between such dealers, 4695
provided that delivery of the petroleum products occurs at a 4696
refinery, terminal, pipeline, or marine vessel and that the 4697
exchanging dealers agree neither dealer shall require monetary 4698
compensation from the other for the value of the exchanged 4699

petroleum products other than such compensation for differences in 4700
product location or grade. Division (F)(2)(hh) of this section 4701
does not apply to amounts realized as a result of differences in 4702
location or grade of exchanged petroleum products or from 4703
handling, lubricity, dye, or other additive injections fees, 4704
pipeline security fees, or similar fees. As used in this division, 4705
"motor fuel," "licensed motor fuel dealer," "licensed permissive 4706
motor fuel dealer," and "terminal" have the same meanings as in 4707
section 5735.01 of the Revised Code. 4708

(ii) In the case of amounts collected by a licensed casino 4709
operator from casino gaming, amounts in excess of the casino 4710
operator's gross casino revenue. In this division, "casino 4711
operator" and "casino gaming" have the meanings defined in section 4712
3772.01 of the Revised Code, and "gross casino revenue" has the 4713
meaning defined in section 5753.01 of the Revised Code. 4714

(jj) Any receipts for which the tax imposed by this chapter 4715
is prohibited by the constitution or laws of the United States or 4716
the constitution of this state. 4717

(3) In the case of a taxpayer when acting as a real estate 4718
broker, "gross receipts" includes only the portion of any fee for 4719
the service of a real estate broker, or service of a real estate 4720
salesperson associated with that broker, that is retained by the 4721
broker and not paid to an associated real estate salesperson or 4722
another real estate broker. For the purposes of this division, 4723
"real estate broker" and "real estate salesperson" have the same 4724
meanings as in section 4735.01 of the Revised Code. 4725

(4) A taxpayer's method of accounting for gross receipts for 4726
a tax period shall be the same as the taxpayer's method of 4727
accounting for federal income tax purposes for the taxpayer's 4728
federal taxable year that includes the tax period. If a taxpayer's 4729
method of accounting for federal income tax purposes changes, its 4730
method of accounting for gross receipts under this chapter shall 4731

be changed accordingly. 4732

(G) "Taxable gross receipts" means gross receipts situated to 4733
this state under section 5751.033 of the Revised Code. 4734

(H) A person has "substantial nexus with this state" if any 4735
of the following applies. The person: 4736

(1) Owns or uses a part or all of its capital in this state; 4737

(2) Holds a certificate of compliance with the laws of this 4738
state authorizing the person to do business in this state; 4739

(3) Has bright-line presence in this state; 4740

(4) Otherwise has nexus with this state to an extent that the 4741
person can be required to remit the tax imposed under this chapter 4742
under the Constitution of the United States. 4743

(I) A person has "bright-line presence" in this state for a 4744
reporting period and for the remaining portion of the calendar 4745
year if any of the following applies. The person: 4746

(1) Has at any time during the calendar year property in this 4747
state with an aggregate value of at least fifty thousand dollars. 4748
For the purpose of division (I)(1) of this section, owned property 4749
is valued at original cost and rented property is valued at eight 4750
times the net annual rental charge. 4751

(2) Has during the calendar year payroll in this state of at 4752
least fifty thousand dollars. Payroll in this state includes all 4753
of the following: 4754

(a) Any amount subject to withholding by the person under 4755
section 5747.06 of the Revised Code; 4756

(b) Any other amount the person pays as compensation to an 4757
individual under the supervision or control of the person for work 4758
done in this state; and 4759

(c) Any amount the person pays for services performed in this 4760

state on its behalf by another. 4761

(3) Has during the calendar year taxable gross receipts of at 4762
least five hundred thousand dollars. 4763

(4) Has at any time during the calendar year within this 4764
state at least twenty-five per cent of the person's total 4765
property, total payroll, or total gross receipts. 4766

(5) Is domiciled in this state as an individual or for 4767
corporate, commercial, or other business purposes. 4768

(J) "Tangible personal property" has the same meaning as in 4769
section 5739.01 of the Revised Code. 4770

(K) "Internal Revenue Code" means the Internal Revenue Code 4771
of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in 4772
this chapter that is not otherwise defined has the same meaning as 4773
when used in a comparable context in the laws of the United States 4774
relating to federal income taxes unless a different meaning is 4775
clearly required. Any reference in this chapter to the Internal 4776
Revenue Code includes other laws of the United States relating to 4777
federal income taxes. 4778

(L) "Calendar quarter" means a three-month period ending on 4779
the thirty-first day of March, the thirtieth day of June, the 4780
thirtieth day of September, or the thirty-first day of December. 4781

(M) "Tax period" means the calendar quarter or calendar year 4782
on the basis of which a taxpayer is required to pay the tax 4783
imposed under this chapter. 4784

(N) "Calendar year taxpayer" means a taxpayer for which the 4785
tax period is a calendar year. 4786

(O) "Calendar quarter taxpayer" means a taxpayer for which 4787
the tax period is a calendar quarter. 4788

(P) "Agent" means a person authorized by another person to 4789
act on its behalf to undertake a transaction for the other, 4790

including any of the following:	4791
(1) A person receiving a fee to sell financial instruments;	4792
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	4793 4794 4795
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	4796 4797
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	4798 4799
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	4800 4801
(Q) "Received" includes amounts accrued under the accrual method of accounting.	4802 4803
(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.	4804 4805 4806 4807 4808 4809 4810
Section 101.02. That existing sections 9.33, 153.65, 718.01, 2937.221, 3354.13, 3355.10, 3357.12, 5503.31, 5503.32, 5513.01, 5533.31, 5537.01, 5537.02, 5537.03, 5537.04, 5537.05, 5537.051, 5537.06, 5537.07, 5537.08, 5537.09, 5537.11, 5537.12, 5537.13, 5537.14, 5537.15, 5537.16, 5537.17, 5537.19, 5537.20, 5537.21, 5537.22, 5537.24, 5537.25, 5537.26, 5537.27, 5537.28, 5537.30, 5728.01, 5735.05, 5735.23, 5739.02, 5747.01, and 5751.01 and sections 126.60, 126.601, 126.602, 126.603, 126.604, and 126.605 of the Revised Code are hereby repealed.	4811 4812 4813 4814 4815 4816 4817 4818 4819

Section 203.10. All items in this section are hereby 4820
appropriated as designated out of any moneys in the state treasury 4821
to the credit of the designated fund. For all appropriations made 4822
in this act, those in the first column are for fiscal year 2014 4823
and those in the second column are for fiscal year 2015. The 4824
appropriations made in this act are in addition to any other 4825
appropriations made for the FY 2014-FY 2015 biennium. 4826

Appropriations

DOT DEPARTMENT OF TRANSPORTATION 4827

Highway Operating Fund Group 4828

7002 772425 Highway Construction	\$ 200,000,000	\$ 300,000,000	4829
- Turnpike			
TOTAL HOF Highway Operating Fund	\$ 200,000,000	\$ 300,000,000	4830

Group

TOTAL ALL BUDGET FUND GROUPS	\$ 200,000,000	\$ 300,000,000	4831
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Within the limits set forth in this act, the Director of 4832
Budget and Management shall establish accounts indicating the 4833
source and amount of funds for each appropriation made in this 4834
act, and shall determine the form and manner in which 4835
appropriation accounts shall be maintained. Expenditures from 4836
appropriations contained in this act shall be accounted for as 4837
though made in the transportation budget act of the 130th General 4838
Assembly. 4839

The appropriations made in this act are subject to all 4840
provisions of the transportation budget act of the 130th General 4841
Assembly that are generally applicable to such appropriations. 4842

Section 815.10. The General Assembly, applying the principle 4843
stated in division (B) of section 1.52 of the Revised Code that 4844
amendments are to be harmonized if reasonably capable of 4845
simultaneous operation, finds that the following sections, 4846
presented in this act as composites of the sections as amended by 4847

the acts indicated, are the resulting versions of the sections in 4848
effect prior to the effective date of the sections as presented in 4849
this act: 4850

Section 5739.02 of the Revised Code as amended by both Am. 4851
Sub. H.B. 487 and Am. Sub. H.B. 508 of the 129th General Assembly. 4852

Section 5747.01 of the Revised Code as amended by Am. H.B. 4853
167, Sub. H.B. 365, and Am. Sub. H.B. 510, all of the 129th 4854
General Assembly. 4855

Section 5751.01 of the Revised Code as amended by both Am. 4856
Sub. H.B. 472 and Am. Sub. H.B. 510 of the 129th General Assembly. 4857