

**As Introduced**

**131st General Assembly**

**Regular Session**

**2015-2016**

**H. B. No. 257**

**Representative Becker**

**Cosponsors: Representatives Brinkman, Retherford, Roegner, Vitale, Young,  
Zeltwanger**

---

**A BILL**

To amend sections 145.01, 145.191, 145.38, 145.384, 1  
145.471, 145.472, 145.58, 742.26, 1509.01, 2  
1509.02, 1509.11, 1509.34, 2305.234, 2305.2341, 3  
3307.01, 3307.35, 3307.352, 3309.341, 3309.344, 4  
3501.13, 5703.052, 5703.19, 5739.01, 5747.02, 5  
5747.05, 5747.08, 5747.41, 5749.01, 5749.02, 6  
5749.03, 5749.04, 5749.06, 5749.07, 5749.08, 7  
5749.10, 5749.12, 5749.13, 5749.14, 5749.15, and 8  
5749.17, to enact sections 190.01, 190.02, 9  
190.03, 190.04, 321.50, 3701.034, 5163.04, and 10  
5747.027, and to repeal sections 145.381, 11  
145.382, 1509.50, 3307.353, and 3309.345 of the 12  
Revised Code to modify the law governing re- 13  
employed retirants; to expand the immunity from 14  
liability for certain health care professionals, 15  
workers, and organizations when providing care 16  
to indigent and uninsured individuals; to 17  
require the Department of Health to ensure that 18  
certain funds are not used to perform elective 19  
abortions, or promote or affiliate with any 20  
entity that performs elective abortions; to 21  
modify the method of calculating the severance 22  
tax; to make certain changes to the sales tax; 23

to modify the income tax rates and calculation; 24  
and to reduce General Revenue Fund 25  
appropriations for the fiscal biennium ending 26  
June 30, 2017; and to eliminate Medicaid funding 27  
for the group described in section 192(a)(10)(i) 28  
(VIII) of the "Social Security Act," 42 U.S.C. 29  
1396a(a)(10)(A)(i)(VIII). 30

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

**Section 1.** That sections 145.01, 145.191, 145.38, 145.384, 31  
145.471, 145.472, 145.58, 742.26, 1509.01, 1509.02, 1509.11, 32  
1509.34, 2305.234, 2305.2341, 3307.01, 3307.35, 3307.352, 33  
3309.341, 3309.344, 3501.13, 5703.052, 5703.19, 5739.01, 34  
5747.02, 5747.05, 5747.08, 5747.41, 5749.01, 5749.02, 5749.03, 35  
5749.04, 5749.06, 5749.07, 5749.08, 5749.10, 5749.12, 5749.13, 36  
5749.14, 5749.15, and 5749.17 be amended and sections 190.01, 37  
190.02, 190.03, 190.04, 321.50, 3701.034, 5163.04, and 5747.027 38  
of the Revised Code be enacted to read as follows: 39

**Sec. 145.01.** As used in this chapter: 40

(A) "Public employee" means: 41

(1) Any person holding an office, not elective, under the 42  
state or any county, township, municipal corporation, park 43  
district, conservancy district, sanitary district, health 44  
district, metropolitan housing authority, state retirement 45  
board, Ohio historical society, public library, county law 46  
library, union cemetery, joint hospital, institutional 47  
commissary, state university, or board, bureau, commission, 48  
council, committee, authority, or administrative body as the 49

same are, or have been, created by action of the general 50  
assembly or by the legislative authority of any of the units of 51  
local government named in division (A) (1) of this section, or 52  
employed and paid in whole or in part by the state or any of the 53  
authorities named in division (A) (1) of this section in any 54  
capacity not covered by section 742.01, 3307.01, 3309.01, or 55  
5505.01 of the Revised Code. 56

(2) A person who is a member of the public employees 57  
retirement system and who continues to perform the same or 58  
similar duties under the direction of a contractor who has 59  
contracted to take over what before the date of the contract was 60  
a publicly operated function. The governmental unit with which 61  
the contract has been made shall be deemed the employer for the 62  
purposes of administering this chapter. 63

(3) Any person who is an employee of a public employer, 64  
notwithstanding that the person's compensation for that 65  
employment is derived from funds of a person or entity other 66  
than the employer. Credit for such service shall be included as 67  
total service credit, provided that the employee makes the 68  
payments required by this chapter, and the employer makes the 69  
payments required by sections 145.48 and 145.51 of the Revised 70  
Code. 71

(4) A person who elects in accordance with section 145.015 72  
of the Revised Code to remain a contributing member of the 73  
public employees retirement system. 74

(5) A person who is an employee of the legal rights 75  
service on September 30, 2012, and continues to be employed by 76  
the nonprofit entity established under Section 319.20 of Am. 77  
Sub. H.B. 153 of the 129th general assembly. The nonprofit 78  
entity is the employer for the purpose of this chapter. 79

In all cases of doubt, the public employees retirement board shall determine under section 145.036, 145.037, or 145.038 of the Revised Code whether any person is a public employee, and its decision is final.

(B) "Member" means any public employee, other than a public employee excluded or exempted from membership in the retirement system by section 145.03, 145.031, 145.032, 145.033, 145.034, 145.035, or 145.38 of the Revised Code. ~~"Member" includes a PERS retirant who becomes a member under division (C) of section 145.38 of the Revised Code.~~ "Member" also includes a disability benefit recipient.

(C) "Head of the department" means the elective or appointive head of the several executive, judicial, and administrative departments, institutions, boards, and commissions of the state and local government as the same are created and defined by the laws of this state or, in case of a charter government, by that charter.

(D) "Employer" or "public employer" means the state or any county, township, municipal corporation, park district, conservancy district, sanitary district, health district, metropolitan housing authority, state retirement board, Ohio historical society, public library, county law library, union cemetery, joint hospital, institutional commissary, state medical university, state university, or board, bureau, commission, council, committee, authority, or administrative body as the same are, or have been, created by action of the general assembly or by the legislative authority of any of the units of local government named in this division not covered by section 742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. In addition, "employer" means the employer of any public

employee. 110

(E) "Prior military service" also means all service 111  
credited for active duty with the armed forces of the United 112  
States as provided in section 145.30 of the Revised Code. 113

(F) "Contributor" means any person who has an account in 114  
the employees' savings fund created by section 145.23 of the 115  
Revised Code. When used in the sections listed in division (B) 116  
of section 145.82 of the Revised Code, "contributor" includes 117  
any person participating in a PERS defined contribution plan. 118

(G) "Beneficiary" or "beneficiaries" means the estate or a 119  
person or persons who, as the result of the death of a member, 120  
contributor, or retirant, qualify for or are receiving some 121  
right or benefit under this chapter. 122

(H) (1) "Total service credit," except as provided in 123  
section 145.37 of the Revised Code, means all service credited 124  
to a member of the retirement system since last becoming a 125  
member, including restored service credit as provided by section 126  
145.31 of the Revised Code; credit purchased under sections 127  
145.293 and 145.299 of the Revised Code; all the member's 128  
military service credit computed as provided in this chapter; 129  
all service credit established pursuant to section 145.297 of 130  
the Revised Code; and any other service credited under this 131  
chapter. For the exclusive purpose of satisfying the service 132  
credit requirement and of determining eligibility for benefits 133  
under sections 145.32, 145.33, 145.331, 145.332, 145.35, 145.36, 134  
and 145.361 of the Revised Code, "five or more years of total 135  
service credit" means sixty or more calendar months of 136  
contributing service in this system. 137

(2) "One and one-half years of contributing service 138

credit," as used in division (B) of section 145.45 of the Revised Code, also means eighteen or more calendar months of employment by a municipal corporation that formerly operated its own retirement plan for its employees or a part of its employees, provided that all employees of that municipal retirement plan who have eighteen or more months of such employment, upon establishing membership in the public employees retirement system, shall make a payment of the contributions they would have paid had they been members of this system for the eighteen months of employment preceding the date membership was established. When that payment has been made by all such employee members, a corresponding payment shall be paid into the employers' accumulation fund by that municipal corporation as the employer of the employees.

(3) Where a member also is a member of the state teachers retirement system or the school employees retirement system, or both, except in cases of retirement on a combined basis pursuant to section 145.37 of the Revised Code or as provided in section 145.383 of the Revised Code, service credit for any period shall be credited on the basis of the ratio that contributions to the public employees retirement system bear to total contributions in all state retirement systems.

(4) Not more than one year of credit may be given for any period of twelve months.

(5) "Ohio service credit" means credit for service that was rendered to the state or any of its political subdivisions or any employer.

(I) "Regular interest" means interest at any rates for the respective funds and accounts as the public employees retirement board may determine from time to time.

(J) "Accumulated contributions" means the sum of all 169  
amounts credited to a contributor's individual account in the 170  
employees' savings fund together with any interest credited to 171  
the contributor's account under section 145.471 or 145.472 of 172  
the Revised Code. 173

(K) (1) "Final average salary" means the greater of the 174  
following: 175

(a) The sum of the member's earnable salaries for the 176  
appropriate number of calendar years of contributing service, 177  
determined under section 145.017 of the Revised Code, in which 178  
the member's earnable salary was highest, divided by the same 179  
number of calendar years or, if the member has fewer than the 180  
appropriate number of calendar years of contributing service, 181  
the total of the member's earnable salary for all years of 182  
contributing service divided by the number of calendar years of 183  
the member's contributing service; 184

(b) The sum of a member's earnable salaries for the 185  
appropriate number of consecutive months, determined under 186  
section 145.017 of the Revised Code, that were the member's last 187  
months of service, up to and including the last month, divided 188  
by the appropriate number of years or, if the time between the 189  
first and final months of service is less than the appropriate 190  
number of consecutive months, the total of the member's earnable 191  
salary for all months of contributing service divided by the 192  
number of years between the first and final months of 193  
contributing service, including any fraction of a year, except 194  
that the member's final average salary shall not exceed the 195  
member's highest earnable salary for any twelve consecutive 196  
months. 197

(2) If contributions were made in only one calendar year, 198

"final average salary" means the member's total earnable salary.	199
(L) "Annuity" means payments for life derived from	200
contributions made by a contributor and paid from the annuity	201
and pension reserve fund as provided in this chapter. All	202
annuities shall be paid in twelve equal monthly installments.	203
(M) "Annuity reserve" means the present value, computed	204
upon the basis of the mortality and other tables adopted by the	205
board, of all payments to be made on account of any annuity, or	206
benefit in lieu of any annuity, granted to a retirant as	207
provided in this chapter.	208
(N) (1) "Disability retirement" means retirement as	209
provided in section 145.36 of the Revised Code.	210
(2) "Disability allowance" means an allowance paid on	211
account of disability under section 145.361 of the Revised Code.	212
(3) "Disability benefit" means a benefit paid as	213
disability retirement under section 145.36 of the Revised Code,	214
as a disability allowance under section 145.361 of the Revised	215
Code, or as a disability benefit under section 145.37 of the	216
Revised Code.	217
(4) "Disability benefit recipient" means a member who is	218
receiving a disability benefit.	219
(O) "Age and service retirement" means retirement as	220
provided in sections 145.32, 145.33, 145.331, 145.332, 145.37,	221
and 145.46 and former section 145.34 of the Revised Code.	222
(P) "Pensions" means annual payments for life derived from	223
contributions made by the employer that at the time of	224
retirement are credited into the annuity and pension reserve	225
fund from the employers' accumulation fund and paid from the	226



annuity and pension reserve fund as provided in this chapter.	227
All pensions shall be paid in twelve equal monthly installments.	228
(Q) "Retirement allowance" means the pension plus that	229
portion of the benefit derived from contributions made by the	230
member.	231
(R) (1) Except as otherwise provided in division (R) of	232
this section, "earnable salary" means all salary, wages, and	233
other earnings paid to a contributor by reason of employment in	234
a position covered by the retirement system. The salary, wages,	235
and other earnings shall be determined prior to determination of	236
the amount required to be contributed to the employees' savings	237
fund under section 145.47 of the Revised Code and without regard	238
to whether any of the salary, wages, or other earnings are	239
treated as deferred income for federal income tax purposes.	240
"Earnable salary" includes the following:	241
(a) Payments made by the employer in lieu of salary,	242
wages, or other earnings for sick leave, personal leave, or	243
vacation used by the contributor;	244
(b) Payments made by the employer for the conversion of	245
sick leave, personal leave, and vacation leave accrued, but not	246
used if the payment is made during the year in which the leave	247
is accrued, except that payments made pursuant to section	248
124.383 or 124.386 of the Revised Code are not earnable salary;	249
(c) Allowances paid by the employer for maintenance,	250
consisting of housing, laundry, and meals, as certified to the	251
retirement board by the employer or the head of the department	252
that employs the contributor;	253
(d) Fees and commissions paid under section 507.09 of the	254
Revised Code;	255

(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;

(f) Amounts included pursuant to former division (K) (3) and former division (Y) of this section and section 145.2916 of the Revised Code.

(2) "Earnable salary" does not include any of the following:

(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;

(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;

(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(e) Payments for accrued but unused sick leave, personal

leave, or vacation that are made at any time other than in the 285  
year in which the sick leave, personal leave, or vacation was 286  
accrued; 287

(f) Payments made to or on behalf of a contributor that 288  
are in excess of the annual compensation that may be taken into 289  
account by the retirement system under division (a) (17) of 290  
section 401 of the "Internal Revenue Code of 1986," 100 Stat. 291  
2085, 26 U.S.C.A. 401(a) (17), as amended; 292

(g) Payments made under division (B), (C), or (E) of 293  
section 5923.05 of the Revised Code, Section 4 of Substitute 294  
Senate Bill No. 3 of the 119th general assembly, Section 3 of 295  
Amended Substitute Senate Bill No. 164 of the 124th general 296  
assembly, or Amended Substitute House Bill No. 405 of the 124th 297  
general assembly; 298

(h) Anything of value received by the contributor that is 299  
based on or attributable to retirement or an agreement to 300  
retire, except that payments made on or before January 1, 1989, 301  
that are based on or attributable to an agreement to retire 302  
shall be included in earnable salary if both of the following 303  
apply: 304

(i) The payments are made in accordance with contract 305  
provisions that were in effect prior to January 1, 1986; 306

(ii) The employer pays the retirement system an amount 307  
specified by the retirement board equal to the additional 308  
liability resulting from the payments. 309

(i) The portion of any amount included in section 145.2916 310  
of the Revised Code that represents employer contributions. 311

(3) The retirement board shall determine by rule whether 312  
any compensation not enumerated in division (R) of this section 313

is earnable salary, and its decision shall be final. 314

(S) "Pension reserve" means the present value, computed 315  
upon the basis of the mortality and other tables adopted by the 316  
board, of all payments to be made on account of any retirement 317  
allowance or benefit in lieu of any retirement allowance, 318  
granted to a member or beneficiary under this chapter. 319

(T) "Contributing service" means both of the following: 320

(1) All service credited to a member of the system since 321  
January 1, 1935, for which contributions are made as required by 322  
sections 145.47, 145.48, and 145.483 of the Revised Code. In any 323  
year subsequent to 1934, credit for any service shall be allowed 324  
in accordance with section 145.016 of the Revised Code. 325

(2) Service credit received by election of the member 326  
under section 145.814 of the Revised Code. 327

(U) "State retirement board" means the public employees 328  
retirement board, the school employees retirement board, or the 329  
state teachers retirement board. 330

(V) "Retirant" means any former member who retires and is 331  
receiving a monthly allowance as provided in sections 145.32, 332  
145.33, 145.331, 145.332, and 145.46 and former section 145.34 333  
of the Revised Code. 334

(W) "Employer contribution" means the amount paid by an 335  
employer as determined under section 145.48 of the Revised Code. 336

(X) "Public service terminates" means the last day for 337  
which a public employee is compensated for services performed 338  
for an employer or the date of the employee's death, whichever 339  
occurs first. 340

(Y) "Five years of service credit," for the exclusive 341

purpose of satisfying the service credit requirements and of 342  
determining eligibility under section 145.33 or 145.332 of the 343  
Revised Code, means employment covered under this chapter or 344  
under a former retirement plan operated, recognized, or endorsed 345  
by the employer prior to coverage under this chapter or under a 346  
combination of the coverage. 347

(Z) "Deputy sheriff" means any person who is commissioned 348  
and employed as a full-time peace officer by the sheriff of any 349  
county, and has been so employed since on or before December 31, 350  
1965; any person who is or has been commissioned and employed as 351  
a peace officer by the sheriff of any county since January 1, 352  
1966, and who has received a certificate attesting to the 353  
person's satisfactory completion of the peace officer training 354  
school as required by section 109.77 of the Revised Code; or any 355  
person deputized by the sheriff of any county and employed 356  
pursuant to section 2301.12 of the Revised Code as a criminal 357  
bailiff or court constable who has received a certificate 358  
attesting to the person's satisfactory completion of the peace 359  
officer training school as required by section 109.77 of the 360  
Revised Code. 361

(AA) "Township constable or police officer in a township 362  
police department or district" means any person who is 363  
commissioned and employed as a full-time peace officer pursuant 364  
to Chapter 505. or 509. of the Revised Code, who has received a 365  
certificate attesting to the person's satisfactory completion of 366  
the peace officer training school as required by section 109.77 367  
of the Revised Code. 368

(BB) "Drug agent" means any person who is either of the 369  
following: 370

(1) Employed full time as a narcotics agent by a county 371

narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(CC) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(DD) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(EE) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(GG) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife officer under section 1531.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "State watercraft officer" means a full-time employee of the department of natural resources who is designated a state watercraft officer under section 1547.521 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(JJ) "Park district police officer" means a full-time employee of a park district who is designated pursuant to section 511.232 or 1545.13 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(KK) "Conservancy district officer" means a full-time employee of a conservancy district who is designated pursuant to section 6101.75 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(LL) "Municipal police officer" means a member of the organized police department of a municipal corporation who is employed full time, is in compliance with section 109.77 of the Revised Code, and is not a member of the Ohio police and fire pension fund.

(MM) "Veterans' home police officer" means any person who is employed at a veterans' home as a police officer pursuant to section 5907.02 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(NN) "Special police officer for a mental health institution" means any person who is designated as such pursuant to section 5119.08 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(OO) "Special police officer for an institution for the 430  
developmentally disabled" means any person who is designated as 431  
such pursuant to section 5123.13 of the Revised Code and is in 432  
compliance with section 109.77 of the Revised Code. 433

(PP) "State university law enforcement officer" means any 434  
person who is employed full time as a state university law 435  
enforcement officer pursuant to section 3345.04 of the Revised 436  
Code and who is in compliance with section 109.77 of the Revised 437  
Code. 438

(QQ) "House sergeant at arms" means any person appointed 439  
by the speaker of the house of representatives under division 440  
(B) (1) of section 101.311 of the Revised Code who has arrest 441  
authority under division (E) (1) of that section. 442

(RR) "Assistant house sergeant at arms" means any person 443  
appointed by the house sergeant at arms under division (C) (1) of 444  
section 101.311 of the Revised Code. 445

(SS) "Regional transit authority police officer" means a 446  
person who is employed full time as a regional transit authority 447  
police officer under division (Y) of section 306.35 of the 448  
Revised Code and is in compliance with section 109.77 of the 449  
Revised Code. 450

(TT) "State highway patrol police officer" means a special 451  
police officer employed full time and designated by the 452  
superintendent of the state highway patrol pursuant to section 453  
5503.09 of the Revised Code or a person serving full time as a 454  
special police officer pursuant to that section on a permanent 455  
basis on October 21, 1997, who is in compliance with section 456  
109.77 of the Revised Code. 457

(UU) "Municipal public safety director" means a person who 458



serves full time as the public safety director of a municipal corporation with the duty of directing the activities of the municipal corporation's police department and fire department.

(VV) Notwithstanding section 2901.01 of the Revised Code, "PERS law enforcement officer" means a sheriff or any of the following whose primary duties are to preserve the peace, protect life and property, and enforce the laws of this state: a deputy sheriff, township constable or police officer in a township police department or district, drug agent, department of public safety enforcement agent, natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, state watercraft officer, park district police officer, conservancy district officer, veterans' home police officer, special police officer for a mental health institution, special police officer for an institution for the developmentally disabled, state university law enforcement officer, municipal police officer, house sergeant at arms, assistant house sergeant at arms, regional transit authority police officer, or state highway patrol police officer. "PERS law enforcement officer" also includes a person serving as a municipal public safety director at any time during the period from September 29, 2005, to March 24, 2009, if the duties of that service were to preserve the peace, protect life and property, and enforce the laws of this state.

(WW) "Hamilton county municipal court bailiff" means a person appointed by the clerk of courts of the Hamilton county municipal court under division (A) (3) of section 1901.32 of the Revised Code who is employed full time as a bailiff or deputy bailiff, who has received a certificate attesting to the person's satisfactory completion of the peace officer basic training described in division (D) (1) of section 109.77 of the

Revised Code. 490

(XX) "PERS public safety officer" means a Hamilton county 491  
municipal court bailiff, or any of the following whose primary 492  
duties are other than to preserve the peace, protect life and 493  
property, and enforce the laws of this state: a deputy sheriff, 494  
township constable or police officer in a township police 495  
department or district, drug agent, department of public safety 496  
enforcement agent, natural resources law enforcement staff 497  
officer, park officer, forest officer, preserve officer, 498  
wildlife officer, state watercraft officer, park district police 499  
officer, conservancy district officer, veterans' home police 500  
officer, special police officer for a mental health institution, 501  
special police officer for an institution for the 502  
developmentally disabled, state university law enforcement 503  
officer, municipal police officer, house sergeant at arms, 504  
assistant house sergeant at arms, regional transit authority 505  
police officer, or state highway patrol police officer. "PERS 506  
public safety officer" also includes a person serving as a 507  
municipal public safety director at any time during the period 508  
from September 29, 2005, to March 24, 2009, if the duties of 509  
that service were other than to preserve the peace, protect life 510  
and property, and enforce the laws of this state. 511

(YY) "Fiduciary" means a person who does any of the 512  
following: 513

(1) Exercises any discretionary authority or control with 514  
respect to the management of the system or with respect to the 515  
management or disposition of its assets; 516

(2) Renders investment advice for a fee, direct or 517  
indirect, with respect to money or property of the system; 518

(3) Has any discretionary authority or responsibility in the administration of the system. 519  
520

(ZZ) "Actuary" means an individual who satisfies all of the following requirements: 521  
522

(1) Is a member of the American academy of actuaries; 523

(2) Is an associate or fellow of the society of actuaries; 524

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans. 525  
526

(AAA) "PERS defined benefit plan" means the plan described in sections 145.201 to 145.79 of the Revised Code. 527  
528

(BBB) "PERS defined contribution plans" means the plan or plans established under section 145.81 of the Revised Code. 529  
530

**Sec. 145.191.** (A) Except as provided in division (F) of this section, a public employees retirement system member or contributor who, as of December 31, 2002, has less than five years of total service credit is eligible to make an election under this section. A member or contributor who is employed in more than one position subject to this chapter is eligible to make only one election. The election applies to all positions subject to this chapter. 531  
532  
533  
534  
535  
536  
537  
538

Not later than June 30, 2003, an eligible member or contributor may elect to participate in a PERS defined contribution plan. Unless a form evidencing an election is received by the system on or before that date, a member or contributor to whom this section applies is deemed to have elected to continue participating in the PERS defined benefit plan. 539  
540  
541  
542  
543  
544  
545

(B) An election under this section shall be made in 546

writing on a form provided by the system and filed with the 547  
system. 548

(C) On the request of a member or contributor who made an 549  
election under this section, the system shall credit to the plan 550  
elected the accumulated contributions standing to the credit of 551  
the member or contributor in the employees' savings fund and 552  
cancel all service credit and eligibility for any payment, 553  
benefit, or right under the PERS defined benefit plan. 554

(D) For each member or contributor who elected under this 555  
section to participate in a PERS defined contribution plan and 556  
made a request under division (C) of this section, any 557  
additional deposits that were made by the member or contributor 558  
prior to April 6, 2007, under the version of division (C) of 559  
section 145.23 of the Revised Code as it existed immediately 560  
prior to that date shall be credited to the defined contribution 561  
plan. 562

(E) An election under this section is effective as of 563  
January 1, 2003, and, except as provided in section 145.814 of 564  
the Revised Code or rules governing the PERS defined benefit 565  
plan, is irrevocable on receipt by the system. 566

(F) An election may not be made under this section by a 567  
member or contributor who is ~~either of the following:~~ 568

~~(1) A PERS retirant who is a member under division (C) of~~ 569  
~~section 145.38 of the Revised Code;~~ 570

~~(2) A a PERS law enforcement officer or a PERS public~~ 571  
~~safety officer.~~ 572

**Sec. 145.38.** (A) As used in this section ~~and sections~~ 573  
~~145.381 and 145.384 of the Revised Code:~~ 574

(1) "PERS retirant" means a former member of the public employees retirement system who is receiving one of the following:

(a) Age and service retirement benefits under section 145.32, 145.33, 145.331, 145.332, or 145.46 or former section 145.34 of the Revised Code;

(b) Age and service retirement benefits paid by the public employees retirement system under section 145.37 of the Revised Code;

(c) Any benefit paid under a PERS defined contribution plan.

(2) "Other system retirant" means both of the following:

(a) A member or former member of the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving age and service or commuted age and service retirement benefits or a disability benefit from a system of which the person is a member or former member;

(b) A member or former member of the public employees retirement system who is receiving age and service retirement benefits or a disability benefit under section 145.37 of the Revised Code paid by the school employees retirement system or the state teachers retirement system.

(3) "Employ" or "employment" includes providing personal services pursuant to a contract or as a consultant, as well as direct employment.

(B) (1) Subject to this section ~~and section 145.381 of the~~

~~Revised Code~~, a PERS retirant or other system retirant may be employed by a public employer. If ~~so employed~~ employment commenced prior to the effective date of this amendment, the PERS retirant or other system retirant shall contribute to the public employees retirement system in accordance with section 145.47 of the Revised Code, and the employer shall make contributions in accordance with section 145.48 of the Revised Code.

~~(2) A public employer that employs a PERS retirant or other system retirant, or enters into a contract for services as an independent contractor with a PERS retirant, shall notify the retirement board of the employment or contract not later than the end of the month in which the employment or contract commences. Any overpayment of benefits to a PERS retirant by the retirement system resulting from delay or failure of the employer to give the notice shall be repaid to the retirement system by the employer.~~

~~(3) On receipt of notice from a public employer that a person who is an other system retirant has been employed, the retirement system shall notify the retirement system of which the other system retirant was a member of such employment.~~

~~(4)~~ (a) A An individual who became a PERS retirant prior to the effective date of this amendment who has received a retirement allowance for less than two months when employment subject to this ~~section~~ division commences shall forfeit the retirement allowance for any month the PERS retirant is employed prior to the expiration of the two-month period. Service and contributions for that period shall not be included in calculation of any benefits payable to the PERS retirant, and those contributions shall be refunded on the retirant's death or

termination of the employment. 633

(b) An individual who became an other system retirant 634  
prior to the effective date of this amendment who has received a 635  
retirement allowance or disability benefit for less than two 636  
months when employment subject to this section commences shall 637  
forfeit the retirement allowance or disability benefit for any 638  
month the other system retirant is employed prior to the 639  
expiration of the two-month period. Service and contributions 640  
for that period shall not be included in the calculation of any 641  
benefits payable to the other system retirant, and those 642  
contributions shall be refunded on the retirant's death or 643  
termination of the employment. 644

~~(e)~~ (3) Contributions made on compensation earned after 645  
the expiration of the two-month period described in division (B) 646  
(2) of this section shall be used in the calculation of the 647  
benefit or payment due under section 145.384 of the Revised 648  
Code. 649

~~(5) On receipt of notice from the Ohio police and fire-~~ 650  
~~pension fund, school employees retirement system, or state-~~ 651  
~~teachers retirement system of the re-employment of a PERS-~~ 652  
~~retirant, the public employees retirement system shall not pay,~~ 653  
~~or if paid, shall recover, the amount to be forfeited by the~~ 654  
~~PERS retirant in accordance with section 742.26, 3307.35, or~~ 655  
~~3309.341 of the Revised Code.~~ 656

~~(6)~~ (C) A PERS retirant who ~~enters,~~ prior to the 657  
effective date of this amendment, entered into a contract to 658  
provide services as an independent contractor to the employer by 659  
which the retirant was employed at the time of retirement or, 660  
less than two months after the retirement allowance ~~commences,~~ 661  
~~begins~~ commenced began providing services as an independent 662

contractor pursuant to a contract with another public employer, 663  
shall forfeit the pension portion of the retirement benefit for 664  
the period beginning the first day of the month following the 665  
month in which the services begin and ending on the first day of 666  
the month following the month in which the services end. The 667  
annuity portion of the retirement allowance shall be suspended 668  
on the day services under the contract begin and shall 669  
accumulate to the credit of the retirant to be paid in a single 670  
payment after services provided under the contract terminate. A 671  
PERS retirant subject to this division ~~(B) (6) of this section~~ 672  
shall not contribute to the retirement system and shall not 673  
become a member of the system. 674

~~(7) As used in this division, "employment" includes 675  
service for which a PERS retirant or other system retirant, the 676  
retirant's employer, or both, have waived any earnable salary 677  
for the service. 678~~

~~(C) (1) Except as provided in division (C) (3) of this 679  
section, this division applies to both of the following: 680~~

~~(a) A PERS retirant who, prior to September 14, 2000, was 681  
subject to division (C) (1) (b) of this section as that division 682  
existed immediately prior to September 14, 2000, and has not 683  
elected pursuant to Am. Sub. S.B. 144 of the 123rd general 684  
assembly to cease to be subject to that division; 685~~

~~(b) A PERS retirant to whom both of the following apply: 686~~

~~(i) The retirant held elective office in this state, or in 687  
any municipal corporation, county, or other political 688  
subdivision of this state at the time of retirement under this 689  
chapter. 690~~

~~(ii) The retirant was elected or appointed to the same 691~~



~~office for the remainder of the term or the term immediately following the term during which the retirement occurred.~~ 692  
693

~~(2) A PERS retirant who is subject to this division is a member of the public employees retirement system with all the rights, privileges, and obligations of membership, except that the membership does not include survivor benefits provided pursuant to section 145.45 of the Revised Code or, beginning on the ninetieth day after September 14, 2000, any amount calculated under section 145.401 of the Revised Code. The pension portion of the PERS retirant's retirement allowance shall be forfeited until the first day of the first month following termination of the employment. The annuity portion of the retirement allowance shall accumulate to the credit of the PERS retirant to be paid in a single payment after termination of the employment. The retirement allowance shall resume on the first day of the first month following termination of the employment. On termination of the employment, the PERS retirant shall elect to receive either a refund of the retirant's contributions to the retirement system during the period of employment subject to this section or a supplemental retirement allowance based on the retirant's contributions and service credit for that period of employment.~~ 694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713

~~(3) This division does not apply to any of the following:~~ 714

~~(a) A PERS retirant elected to office who, at the time of the election for the retirant's current term, was not retired but, not less than ninety days prior to the primary election for the term or the date on which a primary for the term would have been held, filed a written declaration of intent to retire before the end of the term with the director of the board of elections of the county in which petitions for nomination or~~ 715  
716  
717  
718  
719  
720  
721

~~election to the office are filed;~~ 722

~~(b) A PERS retirant elected to office who, at the time of  
the election for the retirant's current term, was a retirant and  
had been retired for not less than ninety days;~~ 723  
724  
725

~~(c) A PERS retirant appointed to office who, at the time  
of appointment to the retirant's current term, notified the  
person or entity making the appointment that the retirant was  
already retired or intended to retire before the end of the  
term.~~ 726  
727  
728  
729  
730

~~(D) (1) Except as provided in division (C) of this section,  
a An individual who becomes a PERS retirant or other system  
retirant on or after the effective date of this amendment shall  
forfeit the pension portion of the retirement allowance for the  
period beginning the first day of the month following the month  
in which employment begins and ending on the first day of the  
month following the month in which employment ends. The annuity  
portion of the retirement allowance shall be suspended on the  
day employment begins and accumulate to the credit of the  
retirant to be used in a recalculation of the retirement  
allowance after employment ends. Neither the retirant nor the  
retirant's employer shall contribute to the public employees  
retirement system on the retirant's behalf.~~ 731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743

~~(E) (1) A public employer that employs a PERS retirant or  
other system retirant shall notify the retirant board of the  
employment not later than the end of the month in which the  
employment commences. Any overpayment of benefits to a PERS  
retirant by the retirement system resulting from delay or  
failure of the employer to give the notice shall be repaid to  
the retirement system by the employer.~~ 744  
745  
746  
747  
748  
749  
750

(2) On receipt of notice from a public employer that an individual who is an other system retirant has been employed, the retirement system shall notify the retirement system of which the other system retirant was a member of the employment. 751  
752  
753  
754

(F) On receipt of notice from the Ohio police and fire pension fund, school employees retirement system, or state teachers retirement system of the re-employment of a PERS retirant, the public employees retirement system shall not pay, or if paid, shall recover, the amount to be forfeited by the PERS retirant in accordance with section 742.26, 3307.35, or 3309.341 of the Revised Code. 755  
756  
757  
758  
759  
760  
761

(G) (1) A PERS retirant or other system retirant subject to this section is not a member of the public employees retirement system, and, except as specified in this section does not have any of the rights, privileges, or obligations of membership. Except as specified in division ~~(D)~~ (G) (2) of this section, the retirant is not eligible to receive health, medical, hospital, or surgical benefits under section 145.58 of the Revised Code for employment subject to this section. 762  
763  
764  
765  
766  
767  
768  
769

(2) A PERS retirant subject to this section shall receive primary health, medical, hospital, or surgical insurance coverage from the retirant's employer, if the employer provides coverage to other employees performing comparable work. Neither the employer nor the PERS retirant may waive the employer's coverage, except that the PERS retirant may waive the employer's coverage if the retirant has coverage comparable to that provided by the employer from a source other than the employer or the public employees retirement system. If a claim is made, the employer's coverage shall be the primary coverage and shall pay first. The benefits provided under section 145.58 of the 770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780

Revised Code shall pay only those medical expenses not paid 781  
through the employer's coverage or coverage the PERS retirant 782  
receives through a source other than the retirement system. 783

~~(E)~~ (H) If the disability benefit of an other system 784  
retirant employed under this section is terminated, the retirant 785  
shall become a member of the public employees retirement system, 786  
effective on the first day of the month next following the 787  
termination with all the rights, privileges, and obligations of 788  
membership. If such person, after the termination of the 789  
disability benefit, earns two years of service credit under this 790  
system or under the Ohio police and fire pension fund, state 791  
teachers retirement system, school employees retirement system, 792  
or state highway patrol retirement system, the person's prior 793  
contributions as an other system retirant under this section 794  
shall be included in the person's total service credit as a 795  
public employees retirement system member, and the person shall 796  
forfeit all rights and benefits of this section. Not more than 797  
one year of credit may be given for any period of twelve months. 798

~~(F)~~ (I) This section does not affect the receipt of 799  
benefits by or eligibility for benefits of any person who on 800  
August 20, 1976, was receiving a disability benefit or service 801  
retirement pension or allowance from a state or municipal 802  
retirement system in Ohio and was a member of any other state or 803  
municipal retirement system of this state. 804

~~(G)~~ (J) The public employees retirement board may adopt 805  
rules to carry out this section. 806

**Sec. 145.384.** (A) As used in this section, "PERS retirant" 807  
~~means a PERS retirant who is not subject to division (C) of~~ has 808  
the same meaning as in section 145.38 of the Revised Code. ~~For~~ 809  
~~purposes of this section, "PERS retirant",~~ except that it also 810

includes both of the following: 811

(1) A member who retired under section 145.383 of the 812  
Revised Code; 813

(2) A retirant whose retirement allowance resumed under 814  
section 145.385 of the Revised Code. 815

(B) (1) An other system retirant or PERS retirant who has 816  
made contributions under section 145.38 or 145.383 of the 817  
Revised Code or, in the case of a retirant described in division 818  
(A) (2) of this section, section 145.47 of the Revised Code may 819  
file an application with the public employees retirement system 820  
to receive either a benefit, as provided in division (B) (2) of 821  
this section, or payment of the retirant's contributions made 822  
under those sections, as provided in division (H) of this 823  
section. 824

(2) A benefit under this section shall consist of an 825  
annuity having a reserve equal to the amount of the retirant's 826  
accumulated contributions for the period of employment, other 827  
than the contributions excluded pursuant to division (B) ~~(4)~~ (2) 828  
(a) or (b) of section 145.38 of the Revised Code, and an amount 829  
of the employer's contributions determined by the board. 830

(a) Unless, as described in division (I) of this section, 831  
the application is accompanied by a statement of the spouse's 832  
consent to another form of payment or the board waives the 833  
requirement of spousal consent, a PERS retirant or other system 834  
retirant who is married at the time of application for a benefit 835  
under this section shall receive a monthly annuity under which 836  
the actuarial equivalent of the retirant's single life annuity 837  
is paid in a lesser amount for life and one-half of the lesser 838  
amount continues after the retirant's death to the surviving 839

spouse. 840

(b) A PERS retirant or other system retirant who is not 841  
subject to division (B) (2) (a) of this section shall elect either 842  
to receive the benefit as a monthly annuity or a lump sum 843  
payment discounted to the present value using a rate of interest 844  
determined by the board. A retirant who elects to receive a 845  
monthly annuity shall select one of the following as the plan of 846  
payment: 847

(i) The retirant's single life annuity; 848

(ii) The actuarial equivalent of the retirant's single 849  
life annuity in an equal or lesser amount for life and 850  
continuing after death to a surviving beneficiary designated at 851  
the time the plan of payment is selected. 852

If a retirant who is eligible to select a plan of payment 853  
under division (B) (2) (b) of this section fails to do so, the 854  
benefit shall be paid as a monthly annuity under the plan of 855  
payment specified in rules adopted by the public employees 856  
retirement board. 857

(c) Notwithstanding divisions (B) (2) (a) and (b) of this 858  
section, if a monthly annuity would be less than twenty-five 859  
dollars per month, the retirant shall receive a lump sum 860  
payment. 861

(C) (1) The death of a spouse or other designated 862  
beneficiary under a plan of payment described in division (B) (2) 863  
of this section cancels that plan of payment. The PERS retirant 864  
or other system retirant shall receive the equivalent of the 865  
retirant's single life annuity, as determined by the board, 866  
effective the first day of the month following the date of 867  
death. 868

(2) On divorce, annulment, or marriage dissolution, a PERS 869  
retirant or other system retirant receiving a benefit described 870  
in division (B) (2) of this section under which the beneficiary 871  
is the spouse may, with the written consent of the spouse or 872  
pursuant to an order of the court with jurisdiction over the 873  
termination of the marriage, elect to cancel the plan and 874  
receive the equivalent of the retirant's single life annuity as 875  
determined by the board. The election shall be made on a form 876  
provided by the board and shall be effective the month following 877  
its receipt by the board. 878

(D) Following a marriage or remarriage, a PERS retirant or 879  
other system retirant who is receiving a benefit described in 880  
division (B) (2) (b) (i) of this section may elect a new plan of 881  
payment under division (B) (2) (b) of this section based on the 882  
actuarial equivalent of the retirant's single life annuity as 883  
determined by the board. 884

If the marriage or remarriage occurs on or after June 6, 885  
2005, the election must be made not later than one year after 886  
the date of the marriage or remarriage. 887

The plan elected under this division shall be effective on 888  
the date of receipt by the board of an application on a form 889  
approved by the board, but any change in the amount of the 890  
benefit shall commence on the first day of the month following 891  
the effective date of the plan. 892

(E) A benefit payable under division (B) (2) of this 893  
section shall commence on the latest of the following: 894

(1) The last day for which compensation for all employment 895  
subject to section 145.38, 145.383, or 145.385 of the Revised 896  
Code was paid; 897

(2) Attainment by the PERS retirant or other system 898  
retirant of age sixty-five; 899

(3) If the PERS retirant or other system retirant was 900  
previously employed under section 145.38, 145.383, or 145.385 of 901  
the Revised Code and is receiving or previously received a 902  
benefit under this section, completion of a period of twelve 903  
months since the effective date of the last benefit under this 904  
section; 905

(4) Ninety days prior to receipt by the board of the 906  
member's completed application for retirement; 907

(5) A date specified by the retirant. 908

(F)(1) If a PERS retirant or other system retirant dies 909  
while employed in employment subject to section 145.38, 145.383, 910  
or 145.385 of the Revised Code, a lump sum payment shall be paid 911  
to the retirant's beneficiary under division (G) of this 912  
section. The lump sum shall be calculated in accordance with 913  
division (H) of this section if the retirant was under age 914  
sixty-five at the time of death. It shall be calculated in 915  
accordance with division (B)(2) of this section if the retirant 916  
was age sixty-five or older at the time of death. 917

(2) If at the time of death a PERS retirant or other 918  
system retirant receiving a monthly annuity under division (B) 919  
(2)(b)(i) of this section has received less than the retirant 920  
would have received as a lump sum payment, the difference 921  
between the amount received and the amount that would have been 922  
received as a lump sum payment shall be paid to the retirant's 923  
beneficiary under division (G) of this section. 924

(3) If a beneficiary receiving a monthly annuity under 925  
division (B)(2) of this section dies and, at the time of the 926



beneficiary's death, the total of the amounts paid to the 927  
retirant and beneficiary are less than the amount the retirant 928  
would have received as a lump sum payment, the difference 929  
between the total of the amounts received by the retirant and 930  
beneficiary and the amount that the retirant would have received 931  
as a lump sum payment shall be paid to the beneficiary's estate. 932

(G) A PERS retirant or other system retirant employed 933  
under section 145.38, 145.383, or 145.385 of the Revised Code 934  
may designate one or more persons as beneficiary to receive any 935  
benefits payable under division (B) (2) (b) of this section due to 936  
death. The designation shall be in writing duly executed on a 937  
form provided by the public employees retirement board, signed 938  
by the PERS retirant or other system retirant, and filed with 939  
the board prior to death. The last designation of a beneficiary 940  
revokes all previous designations. The PERS retirant's or other 941  
system retirant's marriage, divorce, marriage dissolution, legal 942  
separation, withdrawal of account, birth of a child, or adoption 943  
of a child revokes all previous designations. If there is no 944  
designated beneficiary or the beneficiary is not located within 945  
ninety days, the beneficiary shall be determined in the 946  
following order of precedence: 947

- (1) Surviving spouse; 948
- (2) Children, share and share alike; 949
- (3) Parents, share and share alike; 950
- (4) Estate. 951

If any benefit payable under this section due to the death 952  
of a PERS retirant or other system retirant is not claimed by a 953  
beneficiary within five years after the death, the amount 954  
payable shall be transferred to the income fund and thereafter 955

paid to the beneficiary or the estate of the PERS retirant or 956  
other system retirant on application to the board. 957

(H) (1) A PERS retirant or other system retirant who 958  
applies under division (B) (1) of this section for payment of the 959  
retirant's contributions and is unmarried or is married and, 960  
unless the board has waived the requirement of spousal consent, 961  
includes with the application a statement of the spouse's 962  
consent to the payment, shall be paid the contributions made 963  
under section 145.38 or 145.383 of the Revised Code or, in the 964  
case of a retirant described in division (A) (2) of this section, 965  
section 145.47 of the Revised Code, plus interest as provided in 966  
section 145.471 of the Revised Code, if the following conditions 967  
are met: 968

(a) The retirant has not attained sixty-five years of age 969  
and has terminated employment subject to section 145.38, 970  
145.383, or 145.385 of the Revised Code for any cause other than 971  
death or the receipt of a benefit under this section. 972

(b) Three months have elapsed since the termination of the 973  
retirant's employment subject to section 145.38, 145.383, or 974  
145.385 of the Revised Code, other than employment exempted from 975  
contribution pursuant to section 145.03 of the Revised Code. 976

(c) The retirant has not returned to public service, other 977  
than service exempted from contribution pursuant to section 978  
145.03 of the Revised Code, during the three-month period. 979

(2) Payment of a retirant's contributions cancels the 980  
retirant's right to a benefit under division (B) (2) of this 981  
section. 982

(I) A statement of a spouse's consent under division (B) 983  
(2) of this section to the form of a benefit or under division 984

(H) of this section to a payment of contributions is valid only 985  
if signed by the spouse and witnessed by a notary public. The 986  
board may waive the requirement of spousal consent if the spouse 987  
is incapacitated or cannot be located, or for any other reason 988  
specified by the board. Consent or waiver is effective only with 989  
regard to the spouse who is the subject of the consent or 990  
waiver. 991

(J) No amount received under this section shall be 992  
included in determining an additional benefit under section 993  
145.323 of the Revised Code or any other post-retirement benefit 994  
increase. 995

**Sec. 145.471.** (A) (1) On and after December 13, 2000, the 996  
public employees retirement board shall credit interest to the 997  
individual accounts of contributors, except that interest shall 998  
not be credited to the individual account of a PERS or other 999  
system retirant, as defined in section 145.38 of the Revised 1000  
Code, for contributions received during the period described in 1001  
division (B) ~~(4)~~ (2) (a) or (b) of section 145.38 of the Revised 1002  
Code. For amounts deposited by a contributor under section 1003  
145.62 or the version of division (C) of section 145.23 of the 1004  
Revised Code as it existed immediately prior to ~~the effective~~ 1005  
~~date of this amendment~~ April 6, 2007, interest or earnings shall 1006  
be credited in accordance with that section and former division. 1007

(2) Except as provided in section 145.472 of the Revised 1008  
Code, the board shall not credit interest to individual accounts 1009  
for the period beginning December 31, 1958, and ending on 1010  
December 13, 2000. 1011

(B) For contributions received in a calendar year, 1012  
interest shall be earned beginning on the first day of the 1013  
calendar year next following and ending on the last day of that 1014

year, except that interest shall be earned, in the case of an 1015  
application for retirement or payment under section 145.40 or 1016  
145.43 of the Revised Code, ending on the last day of the month 1017  
prior to retirement or payment under those sections. The board 1018  
shall credit interest at the end of the calendar year in which 1019  
it is earned. 1020

**Sec. 145.472.** This section applies to individuals who are 1021  
contributors on December 13, 2000. 1022

(A) Not later than thirty days after December 13, 2000, 1023  
the public employees retirement board shall credit interest to 1024  
the individual account of each contributor in accordance with 1025  
this section, except that interest shall not be credited to the 1026  
individual account of a PERS or other system retirant, as 1027  
defined in section 145.38 of the Revised Code, for contributions 1028  
received during the period described in division (B) ~~(4)~~ (2) (a) or 1029  
(b) of section 145.38 of the Revised Code. For amounts deposited 1030  
by a contributor under section 145.62 or the version of division 1031  
(C) of section 145.23 of the Revised Code as it existed 1032  
immediately prior to ~~the effective date of this amendment~~ April 1033  
6, 2007, interest or earnings shall be credited in accordance 1034  
with that section or former division. 1035

For contributors with service credit earned prior to 1036  
December 31, 1981, the board may reflect the compounding of 1037  
interest by using factors provided by the board's actuary. 1038

(B) The interest credited under this section shall be 1039  
calculated on all amounts on deposit in an individual's account 1040  
in the employees' savings fund as follows: 1041

(1) If this section takes effect on or before December 31, 1042  
2000, interest shall be calculated on amounts on deposit on 1043

December 31, 1998. 1044

(2) If this section takes effect after December 31, 2000, 1045  
interest shall be calculated on amounts on deposit on December 1046  
31, 1999. 1047

**Sec. 145.58.** (A) The public employees retirement board 1048  
shall adopt rules establishing eligibility for any coverage 1049  
provided under this section. The rules shall base eligibility on 1050  
years and types of service credit earned by members. Eligibility 1051  
determinations shall be made in accordance with the rules, 1052  
except that an individual who, as a result of making a false 1053  
statement in an attempt to secure a benefit under this section, 1054  
is convicted of violating section 2921.13 of the Revised Code is 1055  
ineligible for coverage. 1056

(B) The board may enter into agreements with insurance 1057  
companies, health insuring corporations, or government agencies 1058  
authorized to do business in the state for issuance of a policy 1059  
or contract of health, medical, hospital, or surgical coverage, 1060  
or any combination thereof, for eligible individuals receiving 1061  
age and service retirement or a disability or survivor benefit 1062  
subscribing to the plan, or for PERS retirants employed under 1063  
section 145.38 of the Revised Code, for coverage in accordance 1064  
with division ~~(D)~~(G) (2) of section 145.38 of the Revised Code. 1065  
Notwithstanding any other provision of this chapter, the policy 1066  
or contract may also include coverage for any eligible 1067  
individual's spouse and dependent children and for any of the 1068  
eligible individual's sponsored dependents as the board 1069  
determines appropriate. If all or any portion of the policy or 1070  
contract premium is to be paid by any individual receiving age 1071  
and service retirement or a disability or survivor benefit, the 1072  
individual shall, by written authorization, instruct the board 1073

to deduct the premium agreed to be paid by the individual to the 1074  
company, corporation, or agency. 1075

The board may contract for coverage on the basis of part 1076  
or all of the cost of the coverage to be paid from appropriate 1077  
funds of the public employees retirement system. The cost paid 1078  
from the funds of the system shall be included in the employer's 1079  
contribution rate provided by sections 145.48 and 145.51 of the 1080  
Revised Code. The board may by rule provide coverage to 1081  
individuals who are not eligible under the rules adopted under 1082  
division (A) of this section if the coverage is provided at no 1083  
cost to the retirement system. The board shall not pay or 1084  
reimburse the cost for coverage under this section or section 1085  
145.584 of the Revised Code for any such individual. 1086

The board may provide for self-insurance of risk or level 1087  
of risk as set forth in the contract with the companies, 1088  
corporations, or agencies, and may provide through the self- 1089  
insurance method specific coverage as authorized by rules of the 1090  
board. 1091

(C) The board shall, beginning the month following receipt 1092  
of satisfactory evidence of the payment for coverage, pay 1093  
monthly to each recipient of service retirement, or a disability 1094  
or survivor benefit under the public employees retirement system 1095  
who is eligible for coverage under part B of the medicare 1096  
program established under Title XVIII of "The Social Security 1097  
Act Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, 1098  
as amended, an amount determined by the board for such coverage, 1099  
except that the board shall make no such payment to any 1100  
individual who is not eligible for coverage under the rules 1101  
adopted under division (A) of this section or pay an amount that 1102  
exceeds the amount paid by the recipient for the coverage. 1103

At the request of the board, the recipient shall certify 1104  
to the retirement system the amount paid by the recipient for 1105  
coverage described in this division. 1106

(D) The board shall establish by rule requirements for the 1107  
coordination of any coverage or payment provided under this 1108  
section or section 145.584 of the Revised Code with any similar 1109  
coverage or payment made available to the same individual by the 1110  
Ohio police and fire pension fund, state teachers retirement 1111  
system, school employees retirement system, or state highway 1112  
patrol retirement system. 1113

(E) The board shall make all other necessary rules 1114  
pursuant to the purpose and intent of this section. 1115

**Sec. 190.01.** As used in this division: 1116

(A) "Subdivision" has the same meaning as in section 1117  
5705.01 of the Revised Code. 1118

(B) "Eligible subdivision" means a subdivision that is 1119  
located in an eligible county. 1120

(C) "Eligible county" means a county appearing on the most 1121  
recent determination certified by the chief of the division of 1122  
oil and gas resources management under division (C) (2) of 1123  
section 1509.11 of the Revised Code. 1124

(D) "Foundation for Appalachian Ohio" means a nonprofit 1125  
corporation named "The Foundation for Appalachian Ohio." 1126

**Sec. 190.02.** (A) There is hereby created the Ohio shale 1127  
products regional commission. The commission shall ensure the 1128  
long-term growth and continued prosperity of eligible 1129  
subdivisions by doing all of the following: 1130

(1) Awarding grants from the severance tax endowment fund 1131

<u>and the severance tax infrastructure fund;</u>	1132
<u>(2) Identifying local match programs for investments in eligible subdivisions;</u>	1133
	1134
<u>(3) Assisting the short-term and long-term needs of eligible subdivisions;</u>	1135
	1136
<u>(4) Overseeing the long-term success of eligible subdivisions.</u>	1137
	1138
<u>(B) (1) The commission shall consist of the following members, appointed by the governor:</u>	1139
	1140
<u>(a) One member who is a county or civil engineer;</u>	1141
<u>(b) One member with experience in local economic development;</u>	1142
	1143
<u>(c) One member representing the region that includes all eligible counties;</u>	1144
	1145
<u>(d) One member representing eligible counties;</u>	1146
<u>(e) One member representing municipal corporations that are eligible subdivisions;</u>	1147
	1148
<u>(f) One member representing townships that are eligible subdivisions;</u>	1149
	1150
<u>(g) One member of the public recommended to the governor by the speaker of the house of representatives;</u>	1151
	1152
<u>(h) One member of the public recommended to the governor by the president of the senate;</u>	1153
	1154
<u>(i) The president of the foundation for Appalachian Ohio or the president's designee.</u>	1155
	1156
<u>(2) In addition to the members described in division (B)</u>	1157



(1) of this section, the commission shall consist of the 1158  
following ex officio members: 1159

(a) The director of natural resources; 1160

(b) The chief investment officer of the nonprofit 1161  
corporation formed under Chapter 187. of the Revised Code; 1162

(c) The director of transportation; 1163

(d) The director of the governor's office of Appalachian 1164  
Ohio. 1165

(C) The governor shall appoint the first members of the 1166  
commission not later than October 1, 2015. Commission members 1167  
described in divisions (B)(1)(a) to (h) of this section shall 1168  
serve four-year terms, except that for the first term beginning 1169  
after the effective date of this section, members described in 1170  
divisions (B)(1)(c), (d), (f), and (g) of this section each 1171  
shall serve a two-year term. The member described in division 1172  
(B)(1)(i) of this section shall continue to serve until the 1173  
member is no longer eligible to serve on the commission or is 1174  
removed by the governor for any of the reasons described in 1175  
section 3.04 of the Revised Code. 1176

Members described in divisions (B)(1)(a) to (h) of this 1177  
section may be reappointed. Each member shall hold office until 1178  
the later of the end of the term for which the member was 1179  
appointed or the date the member's successor takes office. Any 1180  
member appointed to fill a vacancy occurring before the 1181  
expiration of the term for which the member's predecessor was 1182  
appointed shall hold office for the remainder of the unexpired 1183  
term. A vacancy in the commission shall be filled in the same 1184  
manner as the original appointment. Members described in 1185  
division (B)(1) of this section may be removed by the governor 1186

for any of the reasons described in section 3.04 of the Revised 1187  
Code. 1188

The governor shall not appoint an individual to the 1189  
commission, nor shall an individual serve on the commission, if 1190  
the individual has been convicted of or pleaded guilty or no 1191  
contest to a felony offense. Members under indictment for a 1192  
felony offense shall resign by force of law from the commission 1193  
immediately upon indictment. 1194

A member described in division (B)(1) of this section who 1195  
fails to attend at least sixty per cent of the meetings of the 1196  
commission during any two-year period shall resign by force of 1197  
law from the commission immediately upon failing to meet this 1198  
requirement. 1199

(D) At the first meeting of the commission, which shall 1200  
occur not later than one year after the effective date of the 1201  
enactment of this section, members of the commission shall elect 1202  
a chairperson and a vice-chairperson. The vice-chairperson shall 1203  
assume the duties of the chairperson in the absence of the 1204  
chairperson. The commission shall meet annually or more 1205  
frequently at the call of the chairperson. A majority of the 1206  
commission constitutes a quorum. The member described in 1207  
division (B)(1)(i) of this section shall not serve as a 1208  
chairperson or vice-chairperson. The commission is a public body 1209  
for purposes of section 121.22 of the Revised Code. Records of 1210  
the commission are public records for purposes of section 149.43 1211  
of the Revised Code. 1212

(E) Each member shall be reimbursed for travel expenses 1213  
actually and necessarily incurred in the performance of their 1214  
duties for the commission. The commission may approve and incur 1215  
expenses that are necessary to assist the commission in the 1216

performance of its duties, including engaging the services of an 1217  
attorney or a specialist to advise the commission on matters 1218  
before it. 1219

(F) As requested by the commission, the governor's office 1220  
of Appalachian Ohio shall provide staff and administrative 1221  
assistance to the commission, including assistance to prepare 1222  
the report required under division (H) of this section. 1223

(G) Expenses incurred by the Ohio shale products regional 1224  
commission or members of the commission under division (E) of 1225  
this section and expenses incurred by the governor's office of 1226  
Appalachian Ohio for any assistance provided under division (F) 1227  
of this section shall be paid by the commission from the 1228  
severance tax infrastructure fund. After July 1, 2025, if the 1229  
payment from the severance tax infrastructure fund would exceed 1230  
the amount of interest earned on money in the fund during the 1231  
preceding fiscal year, the excess shall be paid from the 1232  
severance tax endowment fund. If the payment from the severance 1233  
tax endowment fund would exceed the amount of interest earned on 1234  
money in the fund during the preceding fiscal year, the excess 1235  
shall be paid from the severance tax infrastructure fund. 1236

(H) On or before the first day of November of each year, 1237  
the commission shall submit a report to the governor that 1238  
includes financial statements for the severance tax endowment 1239  
fund and the severance tax infrastructure fund and information 1240  
about persons or eligible subdivisions requesting funds from the 1241  
commission, the amount so requested, and the purpose to which 1242  
the requested funds were required to be used. The report shall 1243  
also include the names of any persons or eligible subdivisions 1244  
receiving funds from the commission, any amount so distributed, 1245  
and the purpose for which the requested funds were required to 1246

be used. The report is subject to audit by the auditor of state 1247  
under Chapter 117. of the Revised Code. 1248

Sec. 190.03. There is hereby created the severance tax 1249  
infrastructure fund, which shall be in the custody of the 1250  
treasurer of state, but shall not be a part of the state 1251  
treasury. The fund shall consist of money transferred to it from 1252  
the severance tax receipts fund under section 5749.02 of the 1253  
Revised Code. Money in the fund shall be used by the Ohio shale 1254  
products regional commission for the public purpose of awarding 1255  
grants to eligible subdivisions to support and supplement 1256  
investments in those subdivisions and to pay the expenses of the 1257  
commission or members of the commission under division (E) of 1258  
section 190.02 of the Revised Code and the expenses of the 1259  
governor's office of Appalachian Ohio as authorized under 1260  
division (G) of section 190.02 of the Revised Code. Interest 1261  
earned on the money in the fund shall be credited to the fund. 1262

The commission is the trustee of the severance tax 1263  
infrastructure fund. Disbursements from the fund shall be paid 1264  
by the treasurer of state only upon instruments duly authorized 1265  
by the commission. At the request of the commission, the 1266  
treasurer of state shall select and contract with one or more 1267  
investment managers to invest money credited to the fund. The 1268  
eligible list of investments shall be the same as for the public 1269  
employees retirement system under section 145.11 of the Revised 1270  
Code. All investments shall be subject to the same limitations 1271  
and requirements as the retirement system under that section and 1272  
sections 145.112 and 145.113 of the Revised Code. 1273

Sec. 190.04. There is hereby created the severance tax 1274  
endowment fund, which shall be in the custody of the treasurer 1275  
of state, but shall not be a part of the state treasury. The 1276

fund shall consist of money transferred to it from the severance 1277  
tax receipts fund under section 5749.02 of the Revised Code. 1278  
Money in the fund shall be used by the Ohio shale products 1279  
regional commission for the public purpose of awarding grants 1280  
for projects in subdivisions that were eligible subdivisions for 1281  
any fiscal year that target long-term growth and continued 1282  
prosperity in those subdivisions and to pay the expenses of the 1283  
commission or members of the commission under division (E) of 1284  
section 190.02 of the Revised Code and the expenses of the 1285  
governor's office of Appalachian Ohio as authorized under 1286  
division (G) of section 190.02 of the Revised Code. 1287

The commission is the trustee of the severance tax 1288  
endowment fund. Disbursements from the fund shall be paid by the 1289  
treasurer of state only upon instruments duly authorized by the 1290  
commission. At the request of the commission, the treasurer of 1291  
state shall select and contract with one or more investment 1292  
managers to invest money credited to the fund. The eligible list 1293  
of investments shall be the same as for the public employees 1294  
retirement system under section 145.11 of the Revised Code. All 1295  
investments shall be subject to the same limitations and 1296  
requirements as the retirement system under that section and 1297  
sections 145.112 and 145.113 of the Revised Code. 1298

The commission shall not prepare instruments requesting 1299  
disbursement from the severance tax endowment fund before July 1300  
1, 2025. The treasurer of state shall not disburse money from 1301  
the severance tax endowment fund before July 1, 2025. 1302

**Sec. 321.50.** Every county treasurer who receives money 1303  
from the county severance tax fund under division (B) (7) (b) (i) 1304  
of section 5749.02 of the Revised Code shall create in the 1305  
county treasury a severance tax fund. The treasurer shall 1306

deposit any money so received in the fund. The treasurer shall 1307  
notify the county auditor whenever the treasurer deposits money 1308  
in the fund. 1309

Money in a county's severance tax fund shall be 1310  
distributed according to an order of the county budget 1311  
commission to subdivisions located in the county according to 1312  
procedures and standards prescribed by the budget commission. 1313  
The treasurer shall transfer money from the severance tax fund 1314  
to subdivisions located in the county as prescribed in such 1315  
order. 1316

**Sec. 742.26.** (A) As used in this section: 1317

(1) "Actuarial present value" means the calculation under 1318  
which the probability of occurrence, based on a specified 1319  
mortality table, and the discount for future monetary growth at 1320  
a specified interest rate are considered by an actuary to 1321  
determine the value of an annuity. 1322

(2) "Other system retirant" means a former member of the 1323  
public employees retirement system, state teachers retirement 1324  
system, school employees retirement system, state highway patrol 1325  
retirement system, or Cincinnati retirement system who is 1326  
receiving a disability benefit or an age and service or commuted 1327  
age and service retirement benefit or allowance from a system of 1328  
which the person is a former member. 1329

(3) "OPFPF retirant" means any person who is receiving a 1330  
retirement allowance, other than a disability benefit, from the 1331  
Ohio police and fire pension fund. 1332

(4) "Employ" or "employment" includes providing personal 1333  
services pursuant to a contract or as a consultant, as well as 1334  
direct employment. 1335

(B) The mortality table and interest rate used in 1336  
determining actuarial present value shall be determined by the 1337  
board of trustees of the fund based on the recommendations of an 1338  
actuary employed by the board. 1339

(C) (1) An OPFPF retirant or other system retirant may be 1340  
employed as a member of a police or fire department. If ~~so~~ 1341  
~~employed~~ employment commenced before the effective date of this 1342  
amendment, the retirant shall make contributions to the fund in 1343  
accordance with section 742.31 of the Revised Code, and the 1344  
employer shall make contributions in accordance with sections 1345  
742.33 and 742.34 of the Revised Code. 1346

~~(2) An employer that employs an OPFPF retirant or other 1347  
system retirant shall notify the board of trustees of the fund 1348  
of the employment not later than the end of the month in which 1349  
the employment commences. On receipt of notice from an employer 1350  
that a person who is an other system retirant has been employed, 1351  
the fund shall notify the retirement system of which the other 1352  
system retirant was a member of such employment. 1353~~

~~(D) An individual who became an OPFPF retirant or other 1354  
system retirant prior to the effective date of this amendment 1355  
who has received a retirement allowance or benefit for less than 1356  
two months when employment subject to this ~~section~~ division 1357  
commences shall forfeit the retirement allowance or benefit for 1358  
the period that begins on the date the employment commences and 1359  
ends on the earlier of the date the employment terminates or the 1360  
date that is two months after the date on which the retirement 1361  
allowance or benefit commenced. Service and contributions for 1362  
that period shall not be included in the calculation of any 1363  
benefits payable under this section, and those contributions 1364  
shall be refunded on the retirant's death or termination of the 1365~~

employment. 1366

(D) An individual who becomes an OPFPF retirant or other 1367  
system retirant on or after the effective date of this amendment 1368  
shall forfeit the pension portion of the retirement allowance or 1369  
benefit for the period beginning the first day of the month 1370  
following the month in which employment begins and ending on the 1371  
first day of the month following the month in which employment 1372  
ends. The annuity portion of the retirement allowance or benefit 1373  
shall be suspended on the day employment begins and be used in a 1374  
recalculation of the retirement allowance after employment ends. 1375  
Neither the retirant nor the retirant's employer shall 1376  
contribute to the Ohio police and fire pension fund on the 1377  
retirant's behalf. 1378

(E) A police or fire department that employs an OPFPF 1379  
retirant or other system retirant shall notify the board of 1380  
trustees of the fund of the employment not later than the end of 1381  
the month in which the employment commences. On receipt of 1382  
notice from an employer that an individual who is an other 1383  
system retirant has been employed, the fund shall notify the 1384  
retirement system of which the other system retirant was a 1385  
member of such employment. 1386

(F) On receipt of notice from the public employees 1387  
retirement system, school employees retirement system, or state 1388  
teachers retirement system of the re-employment of an OPFPF 1389  
retirant, the Ohio police and fire pension fund shall not pay, 1390  
or if paid shall recover, the amount to be forfeited by the 1391  
OPFPF retirant in accordance with section 145.38, 3307.35, or 1392  
3309.341 of the Revised Code. 1393

~~(F)~~ (G) (1) On termination of employment under this section, 1394  
an OPFPF retirant or other system retirant may file an 1395



application with the board of trustees of the fund to receive 1396  
either a benefit, as provided in division ~~(F)~~(G) (2) of this 1397  
section, or payment of the retirant's contributions made under 1398  
this section, as provided in division ~~(H)~~(I) of this section. 1399

(2) A benefit under this section shall consist of an 1400  
annuity the actuarial present value of which is equal to two 1401  
times the sum of all amounts deducted from the salary of the 1402  
OPFPF retirant or other system retirant and credited to the 1403  
retirant's individual account in the fund, other than 1404  
contributions excluded pursuant to division ~~(D)~~(C) (2) of this 1405  
section, together with interest credited thereon at the rate 1406  
determined by the board. 1407

(a) Unless, as described in division ~~(I)~~(J) of this 1408  
section, the application is accompanied by a statement of the 1409  
spouse's consent to another form of payment or the board of 1410  
trustees waives the requirement of spousal consent, a retirant 1411  
who is married at the time of application under this division 1412  
shall receive a monthly annuity under which the actuarial 1413  
equivalent of the retirant's single life annuity is paid in a 1414  
lesser amount for life and one-half of the lesser amount 1415  
continues after the retirant's death to the surviving spouse. 1416

(b) A retirant who is not subject to division ~~(F)~~(G) (2) (a) 1417  
of this section shall elect to receive either a monthly annuity 1418  
or a ~~lump sum~~ lump sum payment. If the retirant fails to elect a 1419  
plan of payment, the annuity shall be paid as a monthly annuity 1420  
under the plan of payment specified in rules adopted by the 1421  
board of trustees of the fund. 1422

A retirant who elects to receive a monthly annuity shall 1423  
select one of the following as the plan of payment: 1424

(i) The retirant's single life annuity;	1425
(ii) The actuarial equivalent of the retirant's single life annuity in an equal or lesser amount for life and continuing after death to a surviving beneficiary designated at the time the plan of payment is selected.	1426 1427 1428 1429
(c) Notwithstanding divisions <del>(F)</del> <u>(G)</u> (2) (a) and (b) of this section, if a monthly annuity would be less than twenty-five dollars per month, the retirant shall receive a lump sum payment.	1430 1431 1432 1433
(3) Interest shall be credited to accounts only at the time of calculation of a benefit payable under division <del>(F)</del> <u>(G)</u> (2) of this section.	1434 1435 1436
(4) A benefit payable under this division shall commence on the first day of the month immediately after the latest of the following:	1437 1438 1439
(a) The last day for which compensation for employment subject to this section was paid;	1440 1441
(b) Attainment by the OPFPF retirant or other system retirant of age sixty;	1442 1443
(c) If the OPFPF retirant or other system retirant was previously employed under this section and is receiving or previously received a benefit under this division, completion of a period of twelve months since the last benefit paid under this section commenced.	1444 1445 1446 1447 1448
(5) No amount received under this division shall be included in determining an additional benefit under section 742.3711, 742.3716, or 742.3717 of the Revised Code or any other post-retirement benefit increase.	1449 1450 1451 1452

~~(G)~~ (H) (1) If an OPFPF retirant or other system retirant 1453  
dies while employed in employment subject to this section, a 1454  
~~lump sum~~ lump sum payment calculated in accordance with division 1455  
~~(F)~~ (G) (2) of this section shall be paid to the retirant's 1456  
surviving spouse, or if there is no surviving spouse, to the 1457  
retirant's estate. 1458

(2) If at the time of death an OPFPF retirant or other 1459  
system retirant receiving a monthly annuity under division ~~(F)~~ 1460  
(G) (2) of this section has received less than would have been 1461  
received as a ~~lump sum~~ lump sum payment under division ~~(F)~~ (G) (2) 1462  
of this section, the difference between the amount received and 1463  
the amount that would have been received as a ~~lump sum~~ lump sum 1464  
payment shall be paid to the retirant's surviving spouse, or if 1465  
there is no surviving spouse, to the retirant's estate. 1466

(3) If a beneficiary receiving a monthly annuity under 1467  
division ~~(F)~~ (G) (2) of this section dies and, at the time of the 1468  
beneficiary's death, the total of the amounts paid to the 1469  
retirant and beneficiary are less than the amount the retirant 1470  
would have received as a lump sum payment, the difference 1471  
between the total of the amounts received by the retirant and 1472  
beneficiary and the amount that the retirant would have received 1473  
as a lump sum payment shall be paid to the beneficiary's estate. 1474

~~(H)~~ (I) (1) An OPFPF retirant or other system retirant who 1475  
applies under division ~~(F)~~ (G) (1) of this section for payment of 1476  
the retirant's contributions and is unmarried or is married and, 1477  
unless the board of trustees has waived the requirement of 1478  
spousal consent, includes with the application a statement of 1479  
the spouse's consent to the payment shall be paid the 1480  
contributions made under division (C) (1) of this section, plus 1481  
interest, if the following conditions are met: 1482

(a) The retirant has not attained sixty years of age and 1483  
has terminated employment subject to this section for any cause 1484  
other than death or the receipt of a benefit under division ~~(F)~~ 1485  
(G) of this section. 1486

(b) Three months have elapsed since the termination of 1487  
employment subject to this section. 1488

(c) The retirant has not returned to service subject to 1489  
this chapter or Chapter 145., 3307., or 3309. of the Revised 1490  
Code, other than service exempted from contribution to the 1491  
public employees retirement system pursuant to section 145.03 of 1492  
the Revised Code, during the three-month period. 1493

(2) Payment of a retirant's contributions cancels the 1494  
retirant's right to a benefit under division ~~(F)~~(G) of this 1495  
section. 1496

~~(I)~~(J) A statement of a spouse's consent under division 1497  
~~(F)~~(G) of this section to the form of a benefit or under 1498  
division ~~(H)~~(I) of this section to a payment of contributions 1499  
is valid only if signed by the spouse and witnessed by a notary 1500  
public. The board of trustees may waive the requirement of 1501  
spousal consent if the spouse is incapacitated or cannot be 1502  
located, or for any other reason specified by the board. Consent 1503  
or waiver is effective only with regard to the spouse who is the 1504  
subject of the consent or waiver. 1505

~~(J)~~(K) An other system retirant subject to this section 1506  
is not a member of the Ohio police and fire pension fund, does 1507  
not have any of the rights, privileges, or obligations of 1508  
membership, except as specified in this section, and is not 1509  
eligible to receive health, medical, hospital, or surgical 1510  
benefits under section 742.45 of the Revised Code for employment 1511

subject to this section. 1512

~~(K)~~ (L) If any payment is made by the Ohio police and fire 1513  
pension fund to an OPFPF retirant or other system retirant to 1514  
which the retirant is not entitled, the retirant shall repay it 1515  
to the fund. If the retirant fails to make the repayment, the 1516  
fund shall withhold the amount due from any allowances or other 1517  
amounts due the OPFPF retirant or other system retirant. 1518

~~(L)~~ (M) An OPFPF retirant who is employed under this 1519  
section is not eligible to receive any benefits under section 1520  
742.37 of the Revised Code for the employment under this 1521  
section. 1522

~~(M)~~ (N) This section does not affect the receipt of 1523  
benefits by or eligibility for benefits of any person who on 1524  
August 20, 1976, was receiving a disability benefit or service 1525  
retirement pension or allowance from a state or municipal 1526  
retirement system in Ohio and was a member of any other state or 1527  
municipal retirement system of this state. 1528

~~(N)~~ (O) The board of trustees of the fund may adopt rules 1529  
to carry out this section. 1530

**Sec. 1509.01.** As used in this chapter: 1531

(A) "Well" means any borehole, whether drilled or bored, 1532  
within the state for production, extraction, or injection of any 1533  
gas or liquid mineral, excluding potable water to be used as 1534  
such, but including natural or artificial brines and oil field 1535  
waters. 1536

(B) "Oil" means crude petroleum oil and all other 1537  
hydrocarbons, regardless of gravity, that are produced in liquid 1538  
form by ordinary production methods, but does not include 1539  
hydrocarbons that were originally in a gaseous phase in the 1540

reservoir.	1541
(C) "Gas" means all natural gas and all other fluid	1542
hydrocarbons that are not oil, including condensate.	1543
(D) "Condensate" means liquid hydrocarbons separated at or	1544
near the well pad or along the gas production or gathering	1545
system <del>prior to</del> <u>or by</u> gas processing.	1546
(E) "Pool" means an underground reservoir containing a	1547
common accumulation of oil or gas, or both, but does not include	1548
a gas storage reservoir. Each zone of a geological structure	1549
that is completely separated from any other zone in the same	1550
structure may contain a separate pool.	1551
(F) "Field" means the general area overlaid by one or	1552
more pools.	1553
(G) "Drilling unit" means the minimum acreage on which one	1554
well may be drilled, but does not apply to a well for injecting	1555
gas into or removing gas from a gas storage reservoir.	1556
(H) "Waste" includes all of the following:	1557
(1) Physical waste, as that term generally is understood	1558
in the oil and gas industry;	1559
(2) Inefficient, excessive, or improper use, or the	1560
unnecessary dissipation, of reservoir energy;	1561
(3) Inefficient storing of oil or gas;	1562
(4) Locating, drilling, equipping, operating, or producing	1563
an oil or gas well in a manner that reduces or tends to reduce	1564
the quantity of oil or gas ultimately recoverable under prudent	1565
and proper operations from the pool into which it is drilled or	1566
that causes or tends to cause unnecessary or excessive surface	1567

loss or destruction of oil or gas;	1568
(5) Other underground or surface waste in the production or storage of oil, gas, or condensate, however caused.	1569 1570
(I) "Correlative rights" means the reasonable opportunity to every person entitled thereto to recover and receive the oil and gas in and under the person's tract or tracts, or the equivalent thereof, without having to drill unnecessary wells or incur other unnecessary expense.	1571 1572 1573 1574 1575
(J) "Tract" means a single, individually taxed parcel of land appearing on the tax list.	1576 1577
(K) "Owner," unless referring to a mine, means the person who has the right to drill on a tract or drilling unit, to drill into and produce from a pool, and to appropriate the oil or gas produced therefrom either for the person or for others, except that a person ceases to be an owner with respect to a well when the well has been plugged in accordance with applicable rules adopted and orders issued under this chapter. "Owner" does not include a person who obtains a lease of the mineral rights for oil and gas on a parcel of land if the person does not attempt to produce or produce oil or gas from a well or obtain a permit under this chapter for a well or if the entire interest of a well is transferred to the person in accordance with division (B) of section 1509.31 of the Revised Code.	1578 1579 1580 1581 1582 1583 1584 1585 1586 1587 1588 1589 1590
(L) "Royalty interest" means the fee holder's share in the production from a well.	1591 1592
(M) "Discovery well" means the first well capable of producing oil or gas in commercial quantities from a pool.	1593 1594
(N) "Prepared clay" means a clay that is plastic and is thoroughly saturated with fresh water to a weight and	1595 1596

consistency great enough to settle through saltwater in the well 1597  
in which it is to be used, except as otherwise approved by the 1598  
chief of the division of oil and gas resources management. 1599

(O) "Rock sediment" means the combined cutting and residue 1600  
from drilling sedimentary rocks and formation. 1601

(P) "Excavations and workings," "mine," and "pillar" have 1602  
the same meanings as in section 1561.01 of the Revised Code. 1603

(Q) "Coal bearing township" means a township designated as 1604  
such by the chief of the division of mineral resources 1605  
management under section 1561.06 of the Revised Code. 1606

(R) "Gas storage reservoir" means a continuous area of a 1607  
subterranean porous sand or rock stratum or strata into which 1608  
gas is or may be injected for the purpose of storing it therein 1609  
and removing it therefrom and includes a gas storage reservoir 1610  
as defined in section 1571.01 of the Revised Code. 1611

(S) "Safe Drinking Water Act" means the "Safe Drinking 1612  
Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended 1613  
by the "Safe Drinking Water Amendments of 1977," 91 Stat. 1393, 1614  
42 U.S.C.A. 300(f), the "Safe Drinking Water Act Amendments of 1615  
1986," 100 Stat. 642, 42 U.S.C.A. 300(f), and the "Safe Drinking 1616  
Water Act Amendments of 1996," 110 Stat. 1613, 42 U.S.C.A. 1617  
300(f), and regulations adopted under those acts. 1618

(T) "Person" includes any political subdivision, 1619  
department, agency, or instrumentality of this state; the United 1620  
States and any department, agency, or instrumentality thereof; 1621  
and any legal entity defined as a person under section 1.59 of 1622  
the Revised Code. 1623

(U) "Brine" means all saline geological formation water 1624  
resulting from, obtained from, or produced in connection with 1625



exploration, drilling, well stimulation, production of oil or gas, or plugging of a well. 1626  
1627

(V) "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, springs, irrigation systems, drainage systems, and other bodies of water, surface or underground, natural or artificial, that are situated wholly or partially within this state or within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters. 1628  
1629  
1630  
1631  
1632  
1633  
1634

(W) "Exempt Mississippian well" means a well that meets all of the following criteria: 1635  
1636

(1) Was drilled and completed before January 1, 1980; 1637

(2) Is located in an unglaciated part of the state; 1638

(3) Was completed in a reservoir no deeper than the Mississippian Big Injun sandstone in areas underlain by Pennsylvanian or Permian stratigraphy, or the Mississippian Berea sandstone in areas directly underlain by Permian stratigraphy; 1639  
1640  
1641  
1642  
1643

(4) Is used primarily to provide oil or gas for domestic use. 1644  
1645

(X) "Exempt domestic well" means a well that meets all of the following criteria: 1646  
1647

(1) Is owned by the owner of the surface estate of the tract on which the well is located; 1648  
1649

(2) Is used primarily to provide gas for the owner's domestic use; 1650  
1651

(3) Is located more than two hundred feet horizontal 1652

distance from any inhabited private dwelling house other than an 1653  
inhabited private dwelling house located on the tract on which 1654  
the well is located; 1655

(4) Is located more than two hundred feet horizontal 1656  
distance from any public building that may be used as a place of 1657  
resort, assembly, education, entertainment, lodging, trade, 1658  
manufacture, repair, storage, traffic, or occupancy by the 1659  
public. 1660

(Y) "Urbanized area" means an area where a well or 1661  
production facilities of a well are located within a municipal 1662  
corporation or within a township that has an unincorporated 1663  
population of more than five thousand in the most recent federal 1664  
decennial census prior to the issuance of the permit for the 1665  
well or production facilities. 1666

(Z) "Well stimulation" or "stimulation of a well" means 1667  
the process of enhancing well productivity, including hydraulic 1668  
fracturing operations. 1669

(AA) "Production operation" means all operations and 1670  
activities and all related equipment, facilities, and other 1671  
structures that may be used in or associated with the 1672  
exploration and production of oil, gas, or other mineral 1673  
resources that are regulated under this chapter, including 1674  
operations and activities associated with site preparation, site 1675  
construction, access road construction, well drilling, well 1676  
completion, well stimulation, well site activities, reclamation, 1677  
and plugging. "Production operation" also includes all of the 1678  
following: 1679

(1) The piping, equipment, and facilities used for the 1680  
production and preparation of hydrocarbon gas or liquids for 1681

transportation or delivery;	1682
(2) The processes of extraction and recovery, lifting,	1683
stabilization, treatment, separation, production processing,	1684
storage, waste disposal, and measurement of hydrocarbon gas and	1685
liquids, including related equipment and facilities;	1686
(3) The processes and related equipment and facilities	1687
associated with production compression, gas lift, gas injection,	1688
fuel gas supply, well drilling, well stimulation, and well	1689
completion activities, including dikes, pits, and earthen and	1690
other impoundments used for the temporary storage of fluids and	1691
waste substances associated with well drilling, well	1692
stimulation, and well completion activities;	1693
(4) Equipment and facilities at a wellpad or other	1694
location that are used for the transportation, handling,	1695
recycling, temporary storage, management, processing, or	1696
treatment of any equipment, material, and by-products or other	1697
substances from an operation at a wellpad that may be used or	1698
reused at the same or another operation at a wellpad or that	1699
will be disposed of in accordance with applicable laws and rules	1700
adopted under them.	1701
(BB) "Annular overpressurization" means the accumulation	1702
of fluids within an annulus with sufficient pressure to allow	1703
migration of annular fluids into underground sources of drinking	1704
water.	1705
(CC) "Idle and orphaned well" means a well for which a	1706
bond has been forfeited or an abandoned well for which no money	1707
is available to plug the well in accordance with this chapter	1708
and rules adopted under it.	1709
(DD) "Temporarily inactive well" means a well that has	1710

been granted temporary inactive status under section 1509.062 of the Revised Code.	1711 1712
(EE) "Material and substantial violation" means any of the following:	1713 1714
(1) Failure to obtain a permit to drill, reopen, convert, plugback, or plug a well under this chapter;	1715 1716
(2) Failure to obtain, maintain, update, or submit proof of insurance coverage that is required under this chapter;	1717 1718
(3) Failure to obtain, maintain, update, or submit proof of a surety bond that is required under this chapter;	1719 1720
(4) Failure to plug an abandoned well or idle and orphaned well unless the well has been granted temporary inactive status under section 1509.062 of the Revised Code or the chief of the division of oil and gas resources management has approved another option concerning the abandoned well or idle and orphaned well;	1721 1722 1723 1724 1725 1726
(5) Failure to restore a disturbed land surface as required by section 1509.072 of the Revised Code;	1727 1728
(6) Failure to reimburse the oil and gas well fund pursuant to a final order issued under section 1509.071 of the Revised Code;	1729 1730 1731
(7) Failure to comply with a final nonappealable order of the chief issued under section 1509.04 of the Revised Code;	1732 1733
(8) Failure to submit a report, test result, fee, or document that is required in this chapter or rules adopted under it.	1734 1735 1736
(FF) "Severer" has the same meaning as in section 5749.01	1737

of the Revised Code. 1738

(GG) "Horizontal well" means a well that is drilled for 1739  
the production of oil or gas in which the wellbore reaches a 1740  
horizontal or near horizontal position in the Point Pleasant, 1741  
Utica, or Marcellus formation and the well is stimulated. 1742

(HH) "Well pad" means the area that is cleared or prepared 1743  
for the drilling of one or more horizontal wells. 1744

**Sec. 1509.02.** There is hereby created in the department of 1745  
natural resources the division of oil and gas resources 1746  
management, which shall be administered by the chief of the 1747  
division of oil and gas resources management. The division has 1748  
sole and exclusive authority to regulate the permitting, 1749  
location, and spacing of oil and gas wells and production 1750  
operations within the state, excepting only those activities 1751  
regulated under federal laws for which oversight has been 1752  
delegated to the environmental protection agency and activities 1753  
regulated under sections 6111.02 to 6111.028 of the Revised 1754  
Code. The regulation of oil and gas activities is a matter of 1755  
general statewide interest that requires uniform statewide 1756  
regulation, and this chapter and rules adopted under it 1757  
constitute a comprehensive plan with respect to all aspects of 1758  
the locating, drilling, well stimulation, completing, and 1759  
operating of oil and gas wells within this state, including site 1760  
construction and restoration, permitting related to those 1761  
activities, and the disposal of wastes from those wells. In 1762  
order to assist the division in the furtherance of its sole and 1763  
exclusive authority as established in this section, the chief 1764  
may enter into cooperative agreements with other state agencies 1765  
for advice and consultation, including visitations at the 1766  
surface location of a well on behalf of the division. Such 1767

cooperative agreements do not confer on other state agencies any 1768  
authority to administer or enforce this chapter and rules 1769  
adopted under it. In addition, such cooperative agreements shall 1770  
not be construed to dilute or diminish the division's sole and 1771  
exclusive authority as established in this section. Nothing in 1772  
this section affects the authority granted to the director of 1773  
transportation and local authorities in section 723.01 or 1774  
4513.34 of the Revised Code, provided that the authority granted 1775  
under those sections shall not be exercised in a manner that 1776  
discriminates against, unfairly impedes, or obstructs oil and 1777  
gas activities and operations regulated under this chapter. 1778

The chief shall not hold any other public office, nor 1779  
shall the chief be engaged in any occupation or business that 1780  
might interfere with or be inconsistent with the duties as 1781  
chief. 1782

All moneys collected ~~by the chief~~ pursuant to sections 1783  
1509.06, 1509.061, 1509.062, 1509.071, 1509.11, 1509.13, 1784  
1509.22, 1509.222, 1509.28, and 1509.34, ~~and 1509.50~~ of the 1785  
Revised Code, ~~ninety per cent of moneys received by the~~ 1786  
~~treasurer of state revenue~~ from the tax levied in divisions (A) 1787  
(5) ~~and~~, (6), (10), (11), (12), and (13) of section 5749.02 of 1788  
the Revised Code, all civil penalties paid under section 1509.33 1789  
of the Revised Code, and, notwithstanding any section of the 1790  
Revised Code relating to the distribution or crediting of fines 1791  
for violations of the Revised Code, all fines imposed under 1792  
divisions (A) and (B) of section 1509.99 of the Revised Code and 1793  
fines imposed under divisions (C) and (D) of section 1509.99 of 1794  
the Revised Code for all violations prosecuted by the attorney 1795  
general and for violations prosecuted by prosecuting attorneys 1796  
that do not involve the transportation of brine by vehicle shall 1797  
be deposited into the state treasury to the credit of the oil 1798

and gas well fund, which is hereby created. Fines imposed under 1799  
divisions (C) and (D) of section 1509.99 of the Revised Code for 1800  
violations prosecuted by prosecuting attorneys that involve the 1801  
transportation of brine by vehicle and penalties associated with 1802  
a compliance agreement entered into pursuant to this chapter 1803  
shall be paid to the county treasury of the county where the 1804  
violation occurred. 1805

The fund shall be used solely and exclusively for the 1806  
purposes enumerated in division (B) of section 1509.071 of the 1807  
Revised Code, for the expenses of the division associated with 1808  
the administration of this chapter and Chapter 1571. of the 1809  
Revised Code and rules adopted under them, and for expenses that 1810  
are critical and necessary for the protection of human health 1811  
and safety and the environment related to oil and gas production 1812  
in this state. The expenses of the division in excess of the 1813  
moneys available in the fund shall be paid from general revenue 1814  
fund appropriations to the department. 1815

**Sec. 1509.11.** (A) (1) (a) The owner of any well, except a 1816  
horizontal well, that is producing or capable of producing oil 1817  
or gas shall file with the chief of the division of oil and gas 1818  
resources management, on or before the thirty-first day of 1819  
March, a statement of production of oil, gas, and brine for the 1820  
last preceding calendar year in such form as the chief may 1821  
prescribe. ~~An~~ 1822

An owner that has more than one hundred such wells in this 1823  
state shall submit electronically the statement of production in 1824  
a format that is approved by the chief. ~~The chief shall include~~ 1825  
~~on the form, at the minimum, a request for the submittal of the~~ 1826  
~~information that a person who is regulated under this chapter is~~ 1827  
~~required to submit under the "Emergency Planning and Community~~ 1828

~~Right To Know Act of 1986," 100 Stat. 1728, 42 U.S.C.A. 11001,~~ 1829  
~~and regulations adopted under it, and that the division of oil~~ 1830  
~~and gas resources management does not obtain through other~~ 1831  
~~reporting mechanisms.~~ 1832

(b) (i) As used in division (A) (1) (b) of this section, 1833  
"qualifying gas well" means either of the following: 1834

(I) An exempt domestic well, except for a well designated 1835  
as an exempt domestic well before June 30, 2010. 1836

(II) A well that is not a horizontal well from which 1837  
twenty-five per cent of the quantity of gas produced from the 1838  
well in the preceding calendar year does not exceed nine hundred 1839  
ten thousand cubic feet. 1840

(ii) The owner of one or more qualifying gas wells shall 1841  
remit a fee of sixty dollars for each qualifying gas well to the 1842  
director of the department of natural resources or the 1843  
director's designee by the thirty-first day of March of each 1844  
year, together with the annual statement filed in accordance 1845  
with division (A) (1) (a) of this section or another form 1846  
prescribed by the director for such purpose. Fees collected 1847  
under this division shall be credited to the oil and gas well 1848  
fund. 1849

(2) The owner of any horizontal well that is producing or 1850  
capable of producing oil or gas shall file with the chief, on 1851  
the forty-fifth day following the close of each calendar 1852  
quarter, a statement of production of oil, gas, and brine for 1853  
the preceding calendar quarter in a form that the chief 1854  
prescribes. An owner that has more than one hundred horizontal 1855  
wells in this state shall submit electronically the statement of 1856  
production in a format that is approved by the chief. ~~The chief-~~ 1857



~~shall include on the form, at a minimum, a request for the~~ 1858  
~~submittal of the information that a person who is regulated~~ 1859  
~~under this chapter is required to submit under the "Emergency~~ 1860  
~~Planning and Community Right To Know Act of 1986," 100 Stat.~~ 1861  
~~1728, 42 U.S.C. 11001, and regulations adopted under it, and~~ 1862  
~~that the division does not obtain through other reporting~~ 1863  
~~mechanisms.~~ 1864

(B) The chief shall not disclose information received from 1865  
the department of taxation under division (C) (12) of section 1866  
5703.21 of the Revised Code until the related statement of 1867  
production required by division (A) of this section is filed 1868  
with the chief. 1869

(C) Not later than the thirty-first day of July of each 1870  
year, the chief shall do both of the following: 1871

(1) Calculate for each county and certify to the director 1872  
of budget and management and the tax commissioner the quotient 1873  
obtained by dividing (a) the number of horizontal wells drilled, 1874  
plus the number of horizontal wells for which drilling was 1875  
initiated pursuant to a permit issued under section 1509.06 of 1876  
the Revised Code located in the county on the last day of the 1877  
preceding fiscal year by (b) the number of all horizontal wells 1878  
drilled, plus the number of all horizontal wells for which 1879  
drilling was initiated pursuant to a permit issued under that 1880  
section on that day. The chief shall not adjust any county's 1881  
calculation after the calculations are certified. 1882

(2) Determine which counties in the state had active oil 1883  
and gas development in the Point Pleasant, Utica, or Marcellus 1884  
formation in the preceding fiscal year and, as soon as is 1885  
practicable, certify that determination to the Ohio shale 1886  
products commission. 1887

**Sec. 1509.34.** (A) (1) If an owner fails to pay the fees 1888  
imposed by this chapter, or if the chief of the division of oil 1889  
and gas resources management incurs costs under division (E) of 1890  
section 1509.071 of the Revised Code to correct conditions 1891  
associated with the owner's well that the chief reasonably has 1892  
determined are causing imminent health or safety risks, the 1893  
division of oil and gas resources management shall have a 1894  
priority lien against that owner's interest in the applicable 1895  
well in front of all other creditors for the amount of any such 1896  
unpaid fees and costs incurred. The chief shall file a statement 1897  
in the office of the county recorder of the county in which the 1898  
applicable well is located of the amount of the unpaid fees and 1899  
costs incurred as described in this division. The statement 1900  
shall constitute a lien on the owner's interest in the well as 1901  
of the date of the filing. The lien shall remain in force so 1902  
long as any portion of the lien remains unpaid or until the 1903  
chief issues a certificate of release of the lien. If the chief 1904  
issues a certificate of release of the lien, the chief shall 1905  
file the certificate of release in the office of the applicable 1906  
county recorder. 1907

(2) A lien imposed under division (A) (1) of this section 1908  
shall be in addition to any lien imposed by the attorney general 1909  
for failure to pay the assessment imposed by section 1509.50 of 1910  
the Revised Code or the tax levied under division (A) (5) or (6) 1911  
of section 5749.02 of the Revised Code, as applicable. 1912

(3) If the attorney general cannot collect from a severer 1913  
or an owner for an outstanding balance of amounts due under 1914  
section 1509.50 of the Revised Code or of unpaid taxes levied 1915  
under division (A) (5) ~~or~~, (6), (10), (11), (12), or (13) of 1916  
section 5749.02 of the Revised Code, as applicable, the tax 1917  
commissioner may request the chief to impose a priority lien 1918

against the owner's interest in the applicable well. Such a lien 1919  
has priority in front of all other creditors. 1920

(B) The chief promptly shall issue a certificate of 1921  
release of a lien under either of the following circumstances: 1922

(1) Upon the repayment in full of the amount of unpaid 1923  
fees imposed by this chapter or costs incurred by the chief 1924  
under division (E) of section 1509.071 of the Revised Code to 1925  
correct conditions associated with the owner's well that the 1926  
chief reasonably has determined are causing imminent health or 1927  
safety risks; 1928

(2) Any other circumstance that the chief determines to be 1929  
in the best interests of the state. 1930

(C) The chief may modify the amount of a lien under this 1931  
section. If the chief modifies a lien, the chief shall file a 1932  
statement in the office of the county recorder of the applicable 1933  
county of the new amount of the lien. 1934

(D) An owner regarding which the division has recorded a 1935  
lien against the owner's interest in a well in accordance with 1936  
this section shall not transfer a well, lease, or mineral rights 1937  
to another owner or person until the chief issues a certificate 1938  
of release for each lien against the owner's interest in the 1939  
well. 1940

(E) All money from the collection of liens under this 1941  
section shall be deposited in the state treasury to the credit 1942  
of the oil and gas well fund created in section 1509.02 of the 1943  
Revised Code. 1944

(F) As used in this section, "former section 1509.50 of 1945  
the Revised Code" means section 1509.50 of the Revised Code as 1946  
it existed before its repeal by ...B... of the 131st general 1947

<u>assembly.</u>	1948
<b>Sec. 2305.234.</b> (A) As used in this section:	1949
(1) "Chiropractic claim," "medical claim," and "optometric claim" have the same meanings as in section 2305.113 of the Revised Code.	1950 1951 1952
(2) "Dental claim" has the same meaning as in section 2305.113 of the Revised Code, except that it does not include any claim arising out of a dental operation or any derivative claim for relief that arises out of a dental operation.	1953 1954 1955 1956
(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.	1957 1958
(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, a free clinic or other nonprofit shelter or health care facility as those terms are defined in section 3701.071 of the Revised Code, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person.	1959 1960 1961 1962 1963 1964 1965 1966
(5) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:	1967 1968 1969
(a) Physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	1970 1971 1972
(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter	1973 1974 1975

that authorizes the practice of nursing as a certified	1976
registered nurse anesthetist, clinical nurse specialist,	1977
certified nurse-midwife, or certified nurse practitioner;	1978
(c) Physician assistants authorized to practice under	1979
Chapter 4730. of the Revised Code;	1980
(d) Dentists and dental hygienists licensed under Chapter	1981
4715. of the Revised Code;	1982
(e) Physical therapists, physical therapist assistants,	1983
occupational therapists, occupational therapy assistants, and	1984
athletic trainers licensed under Chapter 4755. of the Revised	1985
Code;	1986
(f) Chiropractors licensed under Chapter 4734. of the	1987
Revised Code;	1988
(g) Optometrists licensed under Chapter 4725. of the	1989
Revised Code;	1990
(h) Podiatrists authorized under Chapter 4731. of the	1991
Revised Code to practice podiatry;	1992
(i) Dietitians licensed under Chapter 4759. of the Revised	1993
Code;	1994
(j) Pharmacists licensed under Chapter 4729. of the	1995
Revised Code;	1996
(k) Emergency medical technicians-basic, emergency medical	1997
technicians-intermediate, and emergency medical technicians-	1998
paramedic, certified under Chapter 4765. of the Revised Code;	1999
(l) Respiratory care professionals licensed under Chapter	2000
4761. of the Revised Code;	2001
(m) Speech-language pathologists and audiologists licensed	2002

under Chapter 4753. of the Revised Code;	2003
(n) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, and marriage and family therapists, licensed under Chapter 4757. of the Revised Code;	2004 2005 2006 2007 2008
(o) Psychologists licensed under Chapter 4732. of the Revised Code;	2009 2010
(p) Individuals licensed or certified under Chapter 4758. of the Revised Code who are acting within the scope of their license or certificate as members of the profession of chemical dependency counseling or alcohol and other drug prevention services.	2011 2012 2013 2014 2015
(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities.	2016 2017 2018 2019 2020 2021 2022
(7) "Indigent and uninsured person" means a person who meets both of the following requirements:	2023 2024
(a) Relative to being indigent, the person's income is not greater than two hundred per cent of the federal poverty line, as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, except in any case in which division (A) (7) (b) (iii) of this section includes a person whose income is greater	2025 2026 2027 2028 2029 2030 2031

than two hundred per cent of the federal poverty line. 2032

(b) Relative to being uninsured, one of the following 2033  
applies: 2034

(i) The person is not a policyholder, certificate holder, 2035  
insured, contract holder, subscriber, enrollee, member, 2036  
beneficiary, or other covered individual under a health 2037  
insurance or health care policy, contract, or plan. 2038

(ii) The person is a policyholder, certificate holder, 2039  
insured, contract holder, subscriber, enrollee, member, 2040  
beneficiary, or other covered individual under a health 2041  
insurance or health care policy, contract, or plan, but the 2042  
insurer, policy, contract, or plan denies coverage or is the 2043  
subject of insolvency or bankruptcy proceedings in any 2044  
jurisdiction. 2045

(iii) Until June 30, 2019, the person is eligible for the 2046  
medicaid program or is a medicaid recipient. 2047

(iv) Except as provided in division (A) (7) (b) (iii) of 2048  
this section, the person is not eligible for or a recipient, 2049  
enrollee, or beneficiary of any governmental health care 2050  
program. 2051

(8) "Nonprofit health care referral organization" means an 2052  
entity that is not operated for profit and refers patients to, 2053  
or arranges for the provision of, health-related diagnosis, 2054  
care, or treatment by a health care professional or health care 2055  
worker. 2056

(9) "Operation" means any procedure that involves cutting 2057  
or otherwise infiltrating human tissue by mechanical means, 2058  
including surgery, laser surgery, ionizing radiation, 2059  
therapeutic ultrasound, or the removal of intraocular foreign 2060

bodies. "Operation" does not include the administration of 2061  
medication by injection, unless the injection is administered in 2062  
conjunction with a procedure infiltrating human tissue by 2063  
mechanical means other than the administration of medicine by 2064  
injection. "Operation" does not include routine dental 2065  
restorative procedures, the scaling of teeth, or extractions of 2066  
teeth that are not impacted. 2067

(10) "Tort action" means a civil action for damages for 2068  
injury, death, or loss to person or property other than a civil 2069  
action for damages for a breach of contract or another agreement 2070  
between persons or government entities. 2071

(11) "Volunteer" means an individual who provides any 2072  
medical, dental, or other health-care related diagnosis, care, 2073  
or treatment without the expectation of receiving and without 2074  
receipt of any compensation or other form of remuneration from 2075  
an indigent and uninsured person, another person on behalf of an 2076  
indigent and uninsured person, any health care facility or 2077  
location, any nonprofit health care referral organization, or 2078  
any other person or government entity. 2079

~~(12) "Community control sanction" has the same meaning as 2080  
in section 2929.01 of the Revised Code. 2081~~

~~(13) "Deep sedation" means a drug-induced depression of 2082  
consciousness during which a patient cannot be easily aroused 2083  
but responds purposefully following repeated or painful 2084  
stimulation, a patient's ability to independently maintain 2085  
ventilatory function may be impaired, a patient may require 2086  
assistance in maintaining a patent airway and spontaneous 2087  
ventilation may be inadequate, and cardiovascular function is 2088  
usually maintained. 2089~~



~~(14) "General anesthesia" means a drug induced loss of  
consciousness during which a patient is not arousable, even by  
painful stimulation, the ability to independently maintain  
ventilatory function is often impaired, a patient often requires  
assistance in maintaining a patent airway, positive pressure  
ventilation may be required because of depressed spontaneous  
ventilation or drug induced depression of neuromuscular  
function, and cardiovascular function may be impaired.~~

(B) (1) Subject to ~~divisions~~ division (F) and ~~(G) (3)~~ of  
this section, a health care professional who is a volunteer and  
complies with division (B) (2) of this section is not liable in  
damages to any person or government entity in a tort or other  
civil action, including an action on a medical, dental,  
chiropractic, optometric, or other health-related claim, for  
injury, death, or loss to person or property that allegedly  
arises from an action or omission of the volunteer in the  
provision to an indigent and uninsured person of medical,  
dental, or other health-related diagnosis, care, or treatment,  
including the provision of samples of medicine and other medical  
products, unless the action or omission constitutes willful or  
wanton misconduct.

(2) To qualify for the immunity described in division (B)  
(1) of this section, a health care professional shall do all of  
the following prior to providing diagnosis, care, or treatment:

(a) Determine, in good faith, that the indigent and  
uninsured person is mentally capable of giving informed consent  
to the provision of the diagnosis, care, or treatment and is not  
subject to duress or under undue influence;

(b) Inform the person of the provisions of this section,  
including notifying the person that, by giving informed consent

to the provision of the diagnosis, care, or treatment, the 2120  
person cannot hold the health care professional liable for 2121  
damages in a tort or other civil action, including an action on 2122  
a medical, dental, chiropractic, optometric, or other health- 2123  
related claim, unless the action or omission of the health care 2124  
professional constitutes willful or wanton misconduct; 2125

(c) Obtain the informed consent of the person and a 2126  
written waiver, signed by the person or by another individual on 2127  
behalf of and in the presence of the person, that states that 2128  
the person is mentally competent to give informed consent and, 2129  
without being subject to duress or under undue influence, gives 2130  
informed consent to the provision of the diagnosis, care, or 2131  
treatment subject to the provisions of this section. A written 2132  
waiver under division (B) (2) (c) of this section shall state 2133  
clearly and in conspicuous type that the person or other 2134  
individual who signs the waiver is signing it with full 2135  
knowledge that, by giving informed consent to the provision of 2136  
the diagnosis, care, or treatment, the person cannot bring a 2137  
tort or other civil action, including an action on a medical, 2138  
dental, chiropractic, optometric, or other health-related claim, 2139  
against the health care professional unless the action or 2140  
omission of the health care professional constitutes willful or 2141  
wanton misconduct. 2142

(3) A physician or podiatrist who is not covered by 2143  
medical malpractice insurance, but complies with division (B) (2) 2144  
of this section, is not required to comply with division (A) of 2145  
section 4731.143 of the Revised Code. 2146

(C) Subject to ~~divisions~~ division (F) and ~~(G) (3)~~ of this 2147  
section, health care workers who are volunteers are not liable 2148  
in damages to any person or government entity in a tort or other 2149

civil action, including an action upon a medical, dental, 2150  
chiropractic, optometric, or other health-related claim, for 2151  
injury, death, or loss to person or property that allegedly 2152  
arises from an action or omission of the health care worker in 2153  
the provision to an indigent and uninsured person of medical, 2154  
dental, or other health-related diagnosis, care, or treatment, 2155  
unless the action or omission constitutes willful or wanton 2156  
misconduct. 2157

(D) Subject to ~~divisions~~ division (F) and ~~(G) (3)~~ of this 2158  
section, a nonprofit health care referral organization is not 2159  
liable in damages to any person or government entity in a tort 2160  
or other civil action, including an action on a medical, dental, 2161  
chiropractic, optometric, or other health-related claim, for 2162  
injury, death, or loss to person or property that allegedly 2163  
arises from an action or omission of the nonprofit health care 2164  
referral organization in referring indigent and uninsured 2165  
persons to, or arranging for the provision of, medical, dental, 2166  
or other health-related diagnosis, care, or treatment by a 2167  
health care professional described in division (B) (1) of this 2168  
section or a health care worker described in division (C) of 2169  
this section, unless the action or omission constitutes willful 2170  
or wanton misconduct. 2171

(E) Subject to ~~divisions~~ division (F) and ~~(G) (3)~~ of this 2172  
section and to the extent that the registration requirements of 2173  
section 3701.071 of the Revised Code apply, a health care 2174  
facility or location associated with a health care professional 2175  
described in division (B) (1) of this section, a health care 2176  
worker described in division (C) of this section, or a nonprofit 2177  
health care referral organization described in division (D) of 2178  
this section is not liable in damages to any person or 2179  
government entity in a tort or other civil action, including an 2180

action on a medical, dental, chiropractic, optometric, or other 2181  
health-related claim, for injury, death, or loss to person or 2182  
property that allegedly arises from an action or omission of the 2183  
health care professional or worker or nonprofit health care 2184  
referral organization relative to the medical, dental, or other 2185  
health-related diagnosis, care, or treatment provided to an 2186  
indigent and uninsured person on behalf of or at the health care 2187  
facility or location, unless the action or omission constitutes 2188  
willful or wanton misconduct. 2189

~~(F) (1) Except as provided in division (F) (2) of this~~ 2190  
~~section, the~~ The immunities provided by divisions (B), (C), (D), 2191  
and (E) of this section are not available to a health care 2192  
professional, health care worker, nonprofit health care referral 2193  
organization, or health care facility or location if, at the 2194  
time of an alleged injury, death, or loss to person or property, 2195  
the health care professionals or health care workers involved 2196  
are providing ~~one of the following:~~ 2197

~~(a) Any medical, dental, or other health-related~~ 2198  
~~diagnosis, care, or treatment pursuant to a community service-~~ 2199  
~~work order entered by a court under division (B) of section-~~ 2200  
~~2951.02 of the Revised Code or imposed by a court as a community-~~ 2201  
~~control sanction;~~ 2202

~~(b) Performance of an operation to which any one of the~~ 2203  
~~following applies:~~ 2204

~~(i) The operation requires the administration of deep~~ 2205  
~~sedation or general anesthesia.~~ 2206

~~(ii) The operation is a procedure that is not typically~~ 2207  
~~performed in an office.~~ 2208

~~(iii) The individual involved is a health care~~ 2209

~~professional, and the operation is beyond the scope of practice— 2210  
or the education, training, and competence, as applicable, of— 2211  
the health care professional. 2212~~

~~(c) Delivery of a baby or any other the purposeful 2213  
termination of a human pregnancy. 2214~~

~~(2) Division (F) (1) of this section does not apply when a 2215  
health care professional or health care worker provides medical,— 2216  
dental, or other health related diagnosis, care, or treatment— 2217  
that is necessary to preserve the life of a person in a medical— 2218  
emergency. 2219~~

(G) (1) This section does not create a new cause of action 2220  
or substantive legal right against a health care professional, 2221  
health care worker, nonprofit health care referral organization, 2222  
or health care facility or location. 2223

(2) This section does not affect any immunities from civil 2224  
liability or defenses established by another section of the 2225  
Revised Code or available at common law to which a health care 2226  
professional, health care worker, nonprofit health care referral 2227  
organization, or health care facility or location may be 2228  
entitled in connection with the provision of emergency or other 2229  
medical, dental, or other health-related diagnosis, care, or 2230  
treatment. 2231

~~(3) This section does not grant an immunity from tort or— 2232  
other civil liability to a health care professional, health care— 2233  
worker, nonprofit health care referral organization, or health— 2234  
care facility or location for actions that are outside the scope— 2235  
of authority of health care professionals or health care— 2236  
workers. 2237~~

~~In the case of the diagnosis, care, or treatment of an— 2238~~

~~indigent and uninsured person who is eligible for the medicaid- 2239  
program or is a medicaid recipient, this section grants an- 2240  
immunity from tort or other civil liability only if the person's- 2241  
diagnosis, care, or treatment is provided in a free clinic, as- 2242  
defined in section 3701.071 of the Revised Code. 2243~~

~~(4) This section does not affect any legal responsibility 2244  
of a health care professional, health care worker, or nonprofit 2245  
health care referral organization to comply with any applicable 2246  
law of this state or rule of an agency of this state. 2247~~

~~(5) (4) This section does not affect any legal 2248  
responsibility of a health care facility or location to comply 2249  
with any applicable law of this state, rule of an agency of this 2250  
state, or local code, ordinance, or regulation that pertains to 2251  
or regulates building, housing, air pollution, water pollution, 2252  
sanitation, health, fire, zoning, or safety. 2253~~

**Sec. 2305.2341.** (A) The medical liability insurance 2254  
reimbursement program is hereby established. Free clinics and 2255  
federally qualified health center look-alikes, including the 2256  
clinics' and centers' staff and volunteer health care 2257  
professionals and volunteer health care workers, may participate 2258  
in the medical liability insurance reimbursement program 2259  
established by this section. The coverage provided under the 2260  
program shall be limited to claims that arise out of the 2261  
diagnosis, treatment, and care of patients of free clinics and 2262  
centers, as defined in division (D) of this section. 2263

(B) A free clinic or federally qualified health center 2264  
look-alike is eligible to receive reimbursement under the 2265  
medical liability insurance reimbursement program for the 2266  
premiums that the clinic or center pays for medical liability 2267  
insurance coverage for the clinic or center, its staff, and 2268

volunteer health care professionals and health care workers. 2269  
Free clinics and federally qualified health center look-alikes 2270  
shall register with the department of health by the thirty-first 2271  
day of January of each year in order to participate in and to 2272  
obtain reimbursement under the program. Clinics that register 2273  
with the department in accordance with this division shall 2274  
receive priority over centers that register for reimbursement. 2275

Free clinics and federally qualified health center look- 2276  
alikes shall provide all of the following to the department of 2277  
health at the time of registration: 2278

(1) A statement of the number of volunteer and paid health 2279  
care professionals and health care workers providing health care 2280  
services at the free clinic or federally qualified health center 2281  
look-alike at that time; 2282

(2) A statement of the number of health care services 2283  
rendered by the free clinic or federally qualified health center 2284  
look-alike during the previous fiscal year; 2285

(3) A signed form acknowledging that the free clinic or 2286  
federally qualified health center look-alike agrees to follow 2287  
its medical liability insurer's risk management and loss 2288  
prevention policies; 2289

(4) A copy of the medical liability insurance policy 2290  
purchased by the free clinic or federally qualified health 2291  
center look-alike, or the policy's declaration page, and 2292  
documentation of the premiums paid by the clinic or center. 2293

(C) The department of health shall reimburse free clinics 2294  
and federally qualified health center look-alikes participating 2295  
in the professional liability insurance reimbursement program 2296  
for up to eighty per cent of the premiums that the clinic or 2297

center pays for medical liability insurance coverage up to 2298  
twenty thousand dollars. Appropriations to the department of 2299  
health may be made from the general fund of the state for this 2300  
purpose. 2301

(D) As used in this section: 2302

(1) "Federally qualified health center look-alike" means a 2303  
public or not-for-profit health center that meets the 2304  
eligibility requirements to receive a federal public health 2305  
services grant under the "Public Health Services Act," 117 Stat. 2306  
2020, 42 U.S.C. 254b, as amended, but does not receive grant 2307  
funding. 2308

(2) "Free clinic" means a nonprofit organization exempt 2309  
from federal income taxation under section 501(c)(3) of the 2310  
"Internal Revenue Code of 1986," as amended, or a program 2311  
component of a nonprofit organization, whose primary mission is 2312  
to provide health care services for free or for a minimal 2313  
administrative fee to individuals with limited resources. A free 2314  
clinic facilitates the delivery of health care services through 2315  
the use of volunteer health care professionals and voluntary 2316  
care networks. For this purpose, a free clinic shall comply with 2317  
all of the following: 2318

(a) If a free clinic does request a minimal administrative 2319  
fee, a free clinic shall not deny an individual access to its 2320  
health care services based on an individual's ability to pay the 2321  
fee. 2322

(b) A free clinic shall not bill a patient for health care 2323  
services rendered. 2324

(c) Free clinics shall not perform operations, as defined 2325  
by ~~divisions~~ division (A) (9) and ~~(F) (1) (b)~~ of section 2305.234 2326



of the Revised Code. 2327

A clinic is not a free clinic if the clinic bills 2328  
medicaid, medicare, or other third-party payers for health care 2329  
services rendered at the clinic, and receives twenty-five per 2330  
cent or more of the clinic's annual revenue from the third-party 2331  
payments. 2332

(3) "Health care professional" and "health care worker" 2333  
have the same meanings as in section 2305.234 of the Revised 2334  
Code. 2335

**Sec. 3307.01.** As used in this chapter: 2336

(A) "Employer" or "public employer" means the board of 2337  
education, school district, governing authority of any community 2338  
school established under Chapter 3314. of the Revised Code, a 2339  
science, technology, engineering, and mathematics school 2340  
established under Chapter 3326. of the Revised Code, college, 2341  
university, institution, or other agency within the state by 2342  
which a teacher is employed and paid. 2343

(B) (1) "Teacher" means all of the following: 2344

(a) Any person paid from public funds and employed in the 2345  
public schools of the state under any type of contract described 2346  
in section 3311.77 or 3319.08 of the Revised Code in a position 2347  
for which the person is required to have a license issued 2348  
pursuant to sections 3319.22 to 3319.31 of the Revised Code; 2349

(b) Any person employed as a teacher by a community school 2350  
or a science, technology, engineering, and mathematics school 2351  
pursuant to Chapter 3314. or 3326. of the Revised Code; 2352

(c) Any person having a license issued pursuant to 2353  
sections 3319.22 to 3319.31 of the Revised Code and employed in 2354

a public school in this state in an educational position, as 2355  
determined by the state board of education, under programs 2356  
provided for by federal acts or regulations and financed in 2357  
whole or in part from federal funds, but for which no licensure 2358  
requirements for the position can be made under the provisions 2359  
of such federal acts or regulations; 2360

(d) Any other teacher or faculty member employed in any 2361  
school, college, university, institution, or other agency wholly 2362  
controlled and managed, and supported in whole or in part, by 2363  
the state or any political subdivision thereof, including 2364  
Central state university, Cleveland state university, and the 2365  
university of Toledo; 2366

(e) The educational employees of the department of 2367  
education, as determined by the state superintendent of public 2368  
instruction. 2369

In all cases of doubt, the state teachers retirement board 2370  
shall determine whether any person is a teacher, and its 2371  
decision shall be final. 2372

(2) "Teacher" does not include any eligible employee of a 2373  
public institution of higher education, as defined in section 2374  
3305.01 of the Revised Code, who elects to participate in an 2375  
alternative retirement plan established under Chapter 3305. of 2376  
the Revised Code. 2377

(C) "Member" means any person included in the membership 2378  
of the state teachers retirement system, which shall consist of 2379  
all teachers and contributors as defined in divisions (B) and 2380  
(D) of this section and all disability benefit recipients, as 2381  
defined in section 3307.50 of the Revised Code. However, for 2382  
purposes of this chapter, the following persons shall not be 2383

considered members:	2384
(1) A student, intern, or resident who is not a member while employed part-time by a school, college, or university at which the student, intern, or resident is regularly attending classes;	2385 2386 2387 2388
(2) A person denied membership pursuant to section 3307.24 of the Revised Code;	2389 2390
(3) An other system retirant, as defined in section 3307.35 of the Revised Code, or a superannuate;	2391 2392
(4) An individual employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501;	2393 2394 2395
(5) The surviving spouse of a member or retirant if the surviving spouse's only connection to the retirement system is an account in an STRS defined contribution plan.	2396 2397 2398
(D) "Contributor" means any person who has an account in the teachers' savings fund or defined contribution fund, except that "contributor" does not mean a member or retirant's surviving spouse with an account in an STRS defined contribution plan.	2399 2400 2401 2402 2403
(E) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.	2404 2405 2406
(F) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary under the plan described in sections 3307.50 to 3307.79 of the Revised Code, "year" may mean the contract year.	2407 2408 2409 2410 2411

(G) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(H) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

(I) "Five years of service credit" means employment covered under this chapter and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under this chapter.

(J) "Actuary" means an actuarial professional contracted with or employed by the state teachers retirement board, who shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least one person is a member of the American academy of actuaries.

(K) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(L) (1) Except as provided in this division, "compensation" 2440  
means all salary, wages, and other earnings paid to a teacher by 2441  
reason of the teacher's employment, including compensation paid 2442  
pursuant to a supplemental contract. The salary, wages, and 2443  
other earnings shall be determined prior to determination of the 2444  
amount required to be contributed to the teachers' savings fund 2445  
or defined contribution fund under section 3307.26 of the 2446  
Revised Code and without regard to whether any of the salary, 2447  
wages, or other earnings are treated as deferred income for 2448  
federal income tax purposes. 2449

(2) Compensation does not include any of the following: 2450

(a) Payments for accrued but unused sick leave or personal 2451  
leave, including payments made under a plan established pursuant 2452  
to section 124.39 of the Revised Code or any other plan 2453  
established by the employer; 2454

(b) Payments made for accrued but unused vacation leave, 2455  
including payments made pursuant to section 124.13 of the 2456  
Revised Code or a plan established by the employer; 2457

(c) Payments made for vacation pay covering concurrent 2458  
periods for which other salary, compensation, or benefits under 2459  
this chapter or Chapter 145. or 3309. of the Revised Code are 2460  
paid; 2461

(d) Amounts paid by the employer to provide life 2462  
insurance, sickness, accident, endowment, health, medical, 2463  
hospital, dental, or surgical coverage, or other insurance for 2464  
the teacher or the teacher's family, or amounts paid by the 2465  
employer to the teacher in lieu of providing the insurance; 2466

(e) Incidental benefits, including lodging, food, laundry, 2467  
parking, or services furnished by the employer, use of the 2468

employer's property or equipment, and reimbursement for job- 2469  
related expenses authorized by the employer, including moving 2470  
and travel expenses and expenses related to professional 2471  
development; 2472

(f) Payments made by the employer in exchange for a 2473  
member's waiver of a right to receive any payment, amount, or 2474  
benefit described in division (L) (2) of this section; 2475

(g) Payments by the employer for services not actually 2476  
rendered; 2477

(h) Any amount paid by the employer as a retroactive 2478  
increase in salary, wages, or other earnings, unless the 2479  
increase is one of the following: 2480

(i) A retroactive increase paid to a member employed by a 2481  
school district board of education in a position that requires a 2482  
license designated for teaching and not designated for being an 2483  
administrator issued under section 3319.22 of the Revised Code 2484  
that is paid in accordance with uniform criteria applicable to 2485  
all members employed by the board in positions requiring the 2486  
licenses; 2487

(ii) A retroactive increase paid to a member employed by a 2488  
school district board of education in a position that requires a 2489  
license designated for being an administrator issued under 2490  
section 3319.22 of the Revised Code that is paid in accordance 2491  
with uniform criteria applicable to all members employed by the 2492  
board in positions requiring the licenses; 2493

(iii) A retroactive increase paid to a member employed by 2494  
a school district board of education as a superintendent that is 2495  
also paid as described in division (L) (2) (h) (i) of this section; 2496

(iv) A retroactive increase paid to a member employed by 2497

an employer other than a school district board of education in 2498  
accordance with uniform criteria applicable to all members 2499  
employed by the employer. 2500

(i) Payments made to or on behalf of a teacher that are in 2501  
excess of the annual compensation that may be taken into account 2502  
by the retirement system under division (a) (17) of section 401 2503  
of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 2504  
U.S.C.A. 401(a) (17), as amended. For a teacher who first 2505  
establishes membership before July 1, 1996, the annual 2506  
compensation that may be taken into account by the retirement 2507  
system shall be determined under division (d) (3) of section 2508  
13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. 2509  
L. No. 103-66, 107 Stat. 472. 2510

(j) Payments made under division (B), (C), or (E) of 2511  
section 5923.05 of the Revised Code, Section 4 of Substitute 2512  
Senate Bill No. 3 of the 119th general assembly, Section 3 of 2513  
Amended Substitute Senate Bill No. 164 of the 124th general 2514  
assembly, or Amended Substitute House Bill No. 405 of the 124th 2515  
general assembly; 2516

(k) Anything of value received by the teacher that is 2517  
based on or attributable to retirement or an agreement to 2518  
retire; 2519

(l) Any amount paid by the employer as a retroactive 2520  
payment of earnings, damages, or back pay pursuant to a court 2521  
order, court-adopted settlement agreement, or other settlement 2522  
agreement, unless the retirement system receives both of the 2523  
following: 2524

(i) Teacher and employer contributions under sections 2525  
3307.26 and 3307.28 of the Revised Code, plus interest 2526

compounded annually at a rate determined by the board, for each 2527  
year or portion of a year for which amounts are paid under the 2528  
order or agreement; 2529

(ii) Teacher and employer contributions under sections 2530  
3307.26 and 3307.28 of the Revised Code, plus interest 2531  
compounded annually at a rate determined by the board, for each 2532  
year or portion of a year not subject to division (L) (2) (1) (i) 2533  
of this section for which the board determines the teacher was 2534  
improperly paid, regardless of the teacher's ability to recover 2535  
on such amounts improperly paid. 2536

(3) The retirement board shall determine both of the 2537  
following: 2538

(a) Whether particular forms of earnings are included in 2539  
any of the categories enumerated in this division; 2540

(b) Whether any form of earnings not enumerated in this 2541  
division is to be included in compensation. 2542

Decisions of the board made under this division shall be 2543  
final. 2544

(M) "Superannuate" means both of the following: 2545

(1) A former teacher receiving from the system a 2546  
retirement allowance under section 3307.58 or 3307.59 of the 2547  
Revised Code; 2548

(2) A former teacher receiving a benefit from the system 2549  
under a plan established under section 3307.81 of the Revised 2550  
Code, except that "superannuate" does not include a former 2551  
teacher who is receiving a benefit based on disability under a 2552  
plan established under section 3307.81 of the Revised Code. 2553

For purposes of ~~sections~~ section 3307.35 ~~and 3307.353~~ of 2554



the Revised Code, "superannuate" also means a former teacher 2555  
receiving from the system a combined service retirement benefit 2556  
paid in accordance with section 3307.57 of the Revised Code, 2557  
regardless of which retirement system is paying the benefit. 2558

(N) "STRS defined benefit plan" means the plan described 2559  
in sections 3307.50 to 3307.79 of the Revised Code. 2560

(O) "STRS defined contribution plan" means the plans 2561  
established under section 3307.81 of the Revised Code and 2562  
includes the STRS combined plan under that section. 2563

**Sec. 3307.35.** (A) As used in this section and section 2564  
3307.352 of the Revised Code, ~~"other":~~ 2565

(1) "Other" system retirant means ~~either both~~ of the 2566  
following: 2567

~~(1)(a)~~ A member or former member of the public employees 2568  
retirement system, Ohio police and fire pension fund, school 2569  
employees retirement system, state highway patrol retirement 2570  
system, or Cincinnati retirement system who is receiving from a 2571  
system of which the retirant is a member or former member age 2572  
and service or commuted age and service retirement, a benefit, 2573  
allowance, or distribution under a plan established under 2574  
section 145.81 or 3309.81 of the Revised Code, or a disability 2575  
benefit; 2576

~~(2)(b)~~ A person who is participating or has participated 2577  
in an alternative retirement plan established under Chapter 2578  
3305. of the Revised Code and is receiving a benefit, allowance, 2579  
or distribution under the plan. 2580

(2) "Employ" or "employment" includes providing personal 2581  
services pursuant to a contract or as a consultant, as well as 2582  
direct employment. 2583

(B) ~~(1)~~ Subject to this section ~~and section 3307.353 of the~~ 2584  
~~Revised Code~~, a superannuate or other system retirant may be 2585  
employed as a teacher. 2586

~~(C) A~~ If employment commenced before the effective date of 2587  
this amendment, the superannuate or other system retirant 2588  
employed in accordance with this ~~section~~ division shall 2589  
contribute to the state teachers retirement system in accordance 2590  
with section 3307.26 of the Revised Code and the employer shall 2591  
contribute in accordance with sections 3307.28 and 3307.31 of 2592  
the Revised Code. Such contributions shall be received as 2593  
specified in section 3307.14 of the Revised Code. ~~A superannuate~~ 2594  
~~or other system retirant employed as a teacher is not a member~~ 2595  
~~of the state teachers retirement system, does not have any of~~ 2596  
~~the rights, privileges, or obligations of membership, except as~~ 2597  
~~provided in this section, and is not eligible to receive health,~~ 2598  
~~medical, hospital, or surgical benefits under section 3307.39 of~~ 2599  
~~the Revised Code for employment subject to this section.~~ 2600

~~(D) The employer that employs a superannuate or other~~ 2601  
~~system retirant shall notify the state teachers retirement board~~ 2602  
~~of the employment not later than the end of the month in which~~ 2603  
~~the employment commences. Any overpayment of benefits to a~~ 2604  
~~superannuate by the retirement system resulting from an~~ 2605  
~~employer's failure to give timely notice may be charged to the~~ 2606  
~~employer and may be certified and deducted as provided in~~ 2607  
~~section 3307.31 of the Revised Code.~~ 2608

~~(E) On receipt of notice from an employer that a person~~ 2609  
~~who is an other system retirant has been employed, the state~~ 2610  
~~teachers retirement system shall notify the state retirement~~ 2611  
~~system of which the other system retirant was a member of such~~ 2612  
~~employment.~~ 2613

~~(F) A~~ (2) An individual who became a superannuate or other system retirant prior to the effective date of this amendment 2614  
who has received an allowance or benefit for less than two 2615  
months when employment subject to this ~~section~~ division or 2616  
section 3305.05 of the Revised Code commences shall forfeit the 2617  
allowance or benefit for any month the superannuate or retirant 2618  
is employed prior to the expiration of such period. The 2619  
allowance or benefit forfeited each month shall be equal to the 2620  
monthly amount the superannuate or other system retirant is 2621  
eligible to receive under a single lifetime benefit plan of 2622  
payment described in division (A) of section 3307.60 of the 2623  
Revised Code. Contributions shall be made to the retirement 2624  
system from the first day of such employment, but service and 2625  
contributions for that period shall not be used in the 2626  
calculation of any benefit payable to the superannuate or other 2627  
system retirant, and those contributions shall be refunded on 2628  
the superannuate's or retirant's death or termination of the 2629  
employment. Contributions made on compensation earned after the 2630  
expiration of such period shall be used in calculation of the 2631  
benefit or payment due under section 3307.352 of the Revised 2632  
Code. 2633  
2634

For purposes of this division, "employment" does not 2635  
include uncompensated volunteer work if the position is 2636  
different from the superannuate's or other system retirant's 2637  
position with the employer by which the superannuate or retirant 2638  
was employed at the time of retirement. 2639

~~(G) (C)~~ An individual who becomes a superannuate or other system retirant on or after the effective date of this amendment shall forfeit the pension portion of the retirement allowance for the period beginning the first day of the month following the month in which employment begins and ending on the first day 2640  
2641  
2642  
2643  
2644

of the month following the month in which employment ends. The 2645  
annuity portion of the retirement allowance shall be suspended 2646  
on the day employment begins and accumulate to the credit of the 2647  
superannuate or retirant to be used in a recalculation of the 2648  
retirement allowance after the employment ends. Neither the 2649  
superannuate or retirant nor the employer shall contribute to 2650  
the state teachers retirement system on behalf of the 2651  
superannuate or retirant. 2652

(D) The superannuate or other system retirant employed as 2653  
a teacher is not a member of the state teachers retirement 2654  
system, does not have any of the rights, privileges, or 2655  
obligations of membership, except as provided in this section, 2656  
and is not eligible to receive health, medical, hospital, or 2657  
surgical benefits under section 3307.39 of the Revised Code for 2658  
employment subject to this section. 2659

(E) (1) The public employer that employs a superannuate or 2660  
other system retirant shall notify the state teachers retirement 2661  
board of the employment not later than the end of the month in 2662  
which the employment commences. Any overpayment of benefits to a 2663  
superannuate by the retirement system resulting from an 2664  
employer's failure to give timely notice may be charged to the 2665  
employer and may be certified and deducted as provided in 2666  
section 3307.31 of the Revised Code. 2667

(2) On receipt of notice from an employer that an 2668  
individual who is an other system retirant has been employed, 2669  
the state teachers retirement system shall notify the state 2670  
retirement system of which the other system retirant was a 2671  
member of such employment. 2672

(F) On receipt of notice from the Ohio police and fire 2673  
pension fund, public employees retirement system, or school 2674

employees retirement system of the re-employment of a 2675  
superannuate, the state teachers retirement system shall not 2676  
pay, or if paid shall recover, the amount to be forfeited by the 2677  
superannuate in accordance with section 145.38, 742.26, or 2678  
3309.341 of the Revised Code. 2679

~~(H)~~(G) If the disability benefit of an other system 2680  
retirant employed under this section is terminated, the retirant 2681  
shall become a member of the state teachers retirement system, 2682  
effective on the first day of the month next following the 2683  
termination, with all the rights, privileges, and obligations of 2684  
membership. If the retirant, after the termination of the 2685  
retirant's disability benefit, earns two years of service credit 2686  
under this retirement system or under the public employees 2687  
retirement system, Ohio police and fire pension fund, school 2688  
employees retirement system, or state highway patrol retirement 2689  
system, the retirant's prior contributions as an other system 2690  
retirant under this section shall be included in the retirant's 2691  
total service credit, as defined in section 3307.50 of the 2692  
Revised Code, as a state teachers retirement system member, and 2693  
the retirant shall forfeit all rights and benefits of this 2694  
section. Not more than one year of credit may be given for any 2695  
period of twelve months. 2696

~~(I)~~(H) This section does not affect the receipt of 2697  
benefits by or eligibility for benefits of any person who on 2698  
August 20, 1976, was receiving a disability benefit or service 2699  
retirement pension or allowance from a state or municipal 2700  
retirement system in Ohio and was a member of any other state or 2701  
municipal retirement system of this state. 2702

~~(J)~~(I) The state teachers retirement board may make the 2703  
necessary rules to carry into effect this section and to prevent 2704

the abuse of the rights and privileges thereunder. 2705

**Sec. 3307.352.** For purposes of this section, 2706  
"superannuate" includes a member who retired under section 2707  
3307.351 of the Revised Code. 2708

(A) Except as provided in division (B)(3) of this section, 2709  
a superannuate or other system retirant who has made 2710  
contributions under section 3307.35 or 3307.351 of the Revised 2711  
Code may file an application with the state teachers retirement 2712  
system for a benefit consisting of a single life annuity. The 2713  
annuity shall have a reserve equal to the amount of the 2714  
superannuate's or retirant's accumulated contributions, as 2715  
defined in section 3307.50 of the Revised Code, for the period 2716  
of employment, other than the contributions excluded pursuant to 2717  
division ~~(F)~~(B)(2) of section 3307.35 of the Revised Code, and 2718  
an amount determined by the state teachers retirement board from 2719  
the employers' trust created by section 3307.14 of the Revised 2720  
Code, plus interest credited to the date of retirement at a rate 2721  
of interest determined by the board. The superannuate or other 2722  
system retirant shall elect either to receive the benefit as a 2723  
monthly annuity for life or a lump sum payment discounted to the 2724  
present value using a rate of interest determined by the board, 2725  
except that if the monthly annuity would be less than twenty- 2726  
five dollars per month the superannuate or retirant shall 2727  
receive a lump sum payment. 2728

A benefit payable under this division shall commence on 2729  
the first day of the month immediately following the latest of 2730  
the following: 2731

(1) The last day for which compensation for employment 2732  
subject to this section was paid; 2733

(2) Attainment by the superannuate or other system retirant of age sixty-five;	2734 2735
(3) If the superannuate or other system retirant was previously employed under section 3307.35 or 3307.351 of the Revised Code and previously received or is receiving a benefit under this division, completion of a period of twelve months since the effective date of the last benefit under this division.	2736 2737 2738 2739 2740 2741
(B) (1) A superannuate or other system retirant under age sixty-five who has made contributions under section 3307.35 or 3307.351 of the Revised Code may file an application with the state teachers retirement system for a return of those contributions if both of the following conditions are met:	2742 2743 2744 2745 2746
(a) The superannuate or retirant has terminated, for any reason other than death, the employment for which the contributions were made.	2747 2748 2749
(b) If the superannuate or retirant received a return of contributions under this division for a previous period of employment under section 3307.35 or 3307.351 of the Revised Code, twelve months have passed since the date the retirement system returned the contributions.	2750 2751 2752 2753 2754
(2) A return of contributions under this division shall consist of the sum of the following:	2755 2756
(a) The contributions the superannuate or other system retirant made under section 3307.35 or 3307.351 of the Revised Code other than the contributions excluded under division <del>(F)</del> <u>(B) (2)</u> of section 3307.35 of the Revised Code;	2757 2758 2759 2760
(b) Interest at a rate determined by the state teachers retirement board credited through the later of the month the	2761 2762

superannuate or retirant terminated the employment for which the 2763  
contributions are made or the date required by division (B) (1) 2764  
(b) of this section. 2765

(3) Payment of a return of contributions under this 2766  
division shall be made on a date determined by the state 2767  
teachers retirement board but shall be not earlier than the 2768  
later of the first day of the first month following termination 2769  
of employment or the date required by division (B) (1) (b) of this 2770  
section. The payment cancels the ~~superannuate~~ superannuate's or 2771  
retirant's right to a benefit under division (A) of this section 2772  
for the service for which the contributions were made. 2773

(C) (1) If a superannuate or other system retirant who made 2774  
contributions under section 3307.35 or 3307.351 of the Revised 2775  
Code dies before receiving a benefit under division (A) of this 2776  
section or a return of contributions under division (B) of this 2777  
section, a lump sum payment shall be paid to the beneficiary 2778  
designated under division (D) (1) of section 3307.562 of the 2779  
Revised Code. The lump sum shall be calculated in accordance 2780  
with division (A) of this section, except that the interest 2781  
shall be credited as follows: 2782

(a) If the superannuate or retirant was under age sixty- 2783  
five at the time of death, the interest shall be credited 2784  
through the month of death. 2785

(b) If the superannuate or retirant was age sixty-five or 2786  
older at the time of death, the interest shall be credited 2787  
through the later of the month in which the superannuate or 2788  
retirant terminated the employment for which the contributions 2789  
are made or the month the superannuate or retirant attained age 2790  
sixty-five. 2791



(2) If at the time of death a superannuate or other system 2792  
retirant receiving a monthly annuity under division (A) of this 2793  
section has received less than the superannuate or retirant 2794  
would have received as a lump sum payment, the difference 2795  
between the amount received and the amount that would have been 2796  
received as a lump sum payment shall be paid to the 2797  
superannuate's or retirant's beneficiary designated under 2798  
division (D) (1) of section 3307.562 of the Revised Code. 2799

(D) No amount received under this section shall be 2800  
included in determining an additional benefit under section 2801  
3307.67 of the Revised Code or any other post-retirement benefit 2802  
increase. 2803

**Sec. 3309.341.** (A) As used in this section and section 2804  
3309.344 of the Revised Code: 2805

(1) "SERS retirant" means any person who is receiving a 2806  
retirement allowance from the school employees retirement system 2807  
under section 3309.36 or 3309.381 or former section 3309.38 of 2808  
the Revised Code or any benefit paid under a plan established 2809  
under section 3309.81 of the Revised Code. 2810

(2) "Other system retirant" means a member or former 2811  
member of the public employees retirement system, Ohio police 2812  
and fire pension fund, state teachers retirement system, state 2813  
highway patrol retirement system, or Cincinnati retirement 2814  
system who is receiving age and service or commuted age and 2815  
service retirement, or a disability benefit from a system of 2816  
which the retirant is a member or former member. 2817

(3) "Employ" or "employment" includes providing personal 2818  
services pursuant to a contract or as consultant, as well as 2819  
direct employment. 2820

(B) (1) Subject to this section ~~and section 3309.345 of the~~ 2821  
~~Revised Code~~, an SERS retirant or other system retirant may be 2822  
employed by a public employer. If ~~so employed~~, employment 2823  
commenced before the effective date of this amendment, the SERS 2824  
retirant or other system retirant shall contribute to the school 2825  
employees retirement system in accordance with section 3309.47 2826  
of the Revised Code, and the employer shall make contributions 2827  
in accordance with section 3309.49 of the Revised Code. 2828

(2) ~~An employer that employs an SERS retirant or other~~ 2829  
~~system retirant shall notify the retirement board of the~~ 2830  
~~employment not later than the end of the month in which the~~ 2831  
~~employment commences. On receipt of notice from an employer that~~ 2832  
~~a person who is an other system retirant has been employed, the~~ 2833  
~~school employees retirement system shall notify the state~~ 2834  
~~retirement system of which the other system retirant was a~~ 2835  
~~member of such employment.~~ 2836

~~(C)~~ An individual who became an SERS retirant or other 2837  
system retirant prior to the effective date of this amendment 2838  
who has received a retirement allowance or disability benefit 2839  
for less than two months when employment subject to this ~~section~~ 2840  
division commences shall forfeit the retirement allowance or 2841  
disability benefit for any month the SERS retirant or other 2842  
system retirant is employed prior to the expiration of the two- 2843  
month period. Service and contributions for that period shall 2844  
not be included in the calculation of any benefits payable to 2845  
the SERS retirant or other system retirant, and those 2846  
contributions shall be refunded on death or termination of the 2847  
employment. Contributions made on compensation earned after the 2848  
expiration of such period shall be used in the calculation of 2849  
the benefit or payment due under section 3309.344 of the Revised 2850  
Code. 2851

(C) An individual who becomes an SERS retirant or other system retirant on or after the effective date of this amendment shall forfeit the pension portion of the retirement allowance for the period beginning the first day of the month following the month in which employment begins and ending on the first day of the month following the month in which employment ends. The annuity portion of the retirement allowance shall be suspended on the day employment begins and accumulate to the credit of the retirant to be used in a recalculation of the retirement allowance after employment ends. Neither the retirant nor the retirant's employer shall contribute to the school employees retirement system on the retirant's behalf. 2852  
2853  
2854  
2855  
2856  
2857  
2858  
2859  
2860  
2861  
2862  
2863

(D) An employer that employs an SERS retirant or other system retirant shall notify the school employees retirement board of the employment not later than the end of the month in which the employment commences. On receipt of notice from an employer that an individual who is an other system retirant has been employed, the school employees retirement system shall notify the state retirement system of which the other system retirant was a member of such employment. 2864  
2865  
2866  
2867  
2868  
2869  
2870  
2871

(E) On receipt of notice from the Ohio police and fire pension fund, public employees retirement system, or state teachers retirement system of the re-employment of an SERS retirant, the school employees retirement system shall not pay, or if paid shall recover, the amount to be forfeited by the SERS retirant in accordance with section 145.38, 742.26, or 3307.35 of the Revised Code. 2872  
2873  
2874  
2875  
2876  
2877  
2878

~~(E)~~ (F) An SERS retirant or other system retirant subject to this section is not a member of the school employees retirement system; does not have any of the rights, privileges, 2879  
2880  
2881

or obligations of membership, except as specified in this 2882  
section; and is not eligible to receive health, medical, 2883  
hospital, or surgical benefits under section 3309.69 of the 2884  
Revised Code for employment subject to this section. 2885

~~(F)~~ (G) If the disability benefit of an other system 2886  
retirant employed under this section is terminated, the retirant 2887  
shall become a member of the school employees retirement system, 2888  
effective on the first day of the month next following the 2889  
termination, with all the rights, privileges, and obligations of 2890  
membership. If the retirant, after the termination of the 2891  
disability benefit, earns two years of service credit under this 2892  
retirement system or under the public employees retirement 2893  
system, Ohio police and fire pension fund, state teachers 2894  
retirement system, or state highway patrol retirement system, 2895  
the retirant's prior contributions as an other system retirant 2896  
under this section shall be included in the retirant's total 2897  
service credit as a school employees retirement system member, 2898  
and the retirant shall forfeit all rights and benefits of this 2899  
section. Not more than one year of credit may be given for any 2900  
period of twelve months. 2901

~~(G)~~ (H) This section does not affect the receipt of 2902  
benefits by or eligibility for benefits of any person who on 2903  
August 29, 1976, was receiving a disability benefit or service 2904  
retirement pension or allowance from a state or municipal 2905  
retirement system in Ohio and was a member of any other state or 2906  
municipal retirement system of this state. 2907

~~(H)~~ (I) The school employees retirement board may adopt 2908  
rules to carry out this section. 2909

**Sec. 3309.344.** For purposes of this section, "SERS 2910  
retirant" includes a member who retired under section 3309.343 2911

of the Revised Code. 2912

(A) Except as provided in division (B) (3) of this section, 2913  
an SERS retirant or other system retirant who has made 2914  
contributions under section 3309.341 or 3309.343 of the Revised 2915  
Code may file an application with the school employees 2916  
retirement system for a benefit consisting of a single life 2917  
annuity. The annuity shall have a reserve equal to the amount of 2918  
the retirant's accumulated contributions for the period of 2919  
employment, other than the contributions excluded pursuant to 2920  
division ~~(C)~~ (B) (2) of section 3309.341 of the Revised Code, and 2921  
an amount of the employer's contributions determined by the 2922  
board, plus interest credited to the date of retirement at a 2923  
rate determined by the board. The SERS retirant or other system 2924  
retirant shall elect either to receive the benefit as a monthly 2925  
annuity for life or a lump sum payment discounted to the present 2926  
value using a rate of interest determined by the board, except 2927  
that if the monthly annuity would be less than twenty-five 2928  
dollars per month, the retirant shall receive a lump sum 2929  
payment. 2930

A benefit payable under this division shall commence on 2931  
the first day of the month after the latest of the following: 2932

(1) The last day for which compensation for all employment 2933  
subject to sections 3309.341 and 3309.343 of the Revised Code 2934  
was paid; 2935

(2) Attainment by the SERS retirant or other system 2936  
retirant of age sixty-five; 2937

(3) If the SERS retirant or other system retirant was 2938  
previously employed under section 3309.341 or 3309.343 of the 2939  
Revised Code and is receiving or previously received a benefit 2940

under this division, completion of a period of twelve months 2941  
since the effective date of that benefit. 2942

(B) (1) An SERS or other system retirant under age sixty- 2943  
five who has made contributions under section 3309.341 or 2944  
3309.343 of the Revised Code may file an application with the 2945  
school employees retirement system for a return of those 2946  
contributions if both of the following conditions are met: 2947

(a) The retirant has terminated, for any reason other than 2948  
death, the employment for which the contributions were made. 2949

(b) If the retirant received a return of contributions 2950  
under this division for a previous period of employment under 2951  
section 3309.341 or 3309.343 of the Revised Code, twelve months 2952  
have passed since the date the retirement system returned the 2953  
contributions. 2954

(2) A return of contributions under this division shall 2955  
consist of all of the contributions the SERS or other system 2956  
retirant made under section 3309.341 or 3309.343 of the Revised 2957  
Code. 2958

(3) Payment of a return of contributions under this 2959  
division cancels the SERS or other system retirant's right to a 2960  
benefit under division (A) of this section for the service for 2961  
which the contributions were made. 2962

(C) (1) If an SERS retirant or other system retirant who 2963  
made contributions under section 3309.341 or 3309.343 of the 2964  
Revised Code dies before receiving a benefit under division (A) 2965  
of this section or a return of contributions under division (B) 2966  
of this section, a lump sum payment shall be paid to the 2967  
beneficiary under division (D) of this section. The lump sum 2968  
shall be calculated in accordance with division (A) of this 2969

section. 2970

(2) If at the time of death an SERS retirant or other 2971  
system retirant receiving a monthly annuity under division (A) 2972  
of this section has received less than the retirant would have 2973  
received as a lump sum payment, the difference between the 2974  
amount received and the amount that would have been received as 2975  
a lump sum payment shall be paid to the retirant's beneficiary 2976  
under division (D) of this section. 2977

(D) An SERS retirant or other system retirant employed 2978  
under section 3309.341 or 3309.343 of the Revised Code may 2979  
designate one or more persons as beneficiary to receive any 2980  
benefits payable under this section due to death. The 2981  
designation shall be in writing duly executed on a form provided 2982  
by the school employees retirement board, signed by the SERS 2983  
retirant or other system retirant, and filed with the board 2984  
prior to death. The last designation of a beneficiary revokes 2985  
all previous designations. The SERS retirant's or other system 2986  
retirant's marriage, divorce, marriage dissolution, legal 2987  
separation, withdrawal of account, birth of the retirant's 2988  
child, or adoption of a child revokes all previous designations. 2989  
If there is no designated beneficiary, the beneficiary is the 2990  
beneficiary designated under division (D) of section 3309.44 of 2991  
the Revised Code. If any benefit payable under this section due 2992  
to the death of an SERS retirant or other system retirant is not 2993  
claimed by a beneficiary within five years after the death, the 2994  
amount payable shall be transferred to the guarantee fund and 2995  
thereafter paid to the beneficiary or the estate of the SERS 2996  
retirant or other system retirant on application to the board. 2997

(E) No amount received under this section shall be 2998  
included in determining an additional benefit under section 2999

3309.374 of the Revised Code or any other post-retirement 3000  
benefit increases. 3001

**Sec. 3501.13.** (A) The director of the board of elections 3002  
shall keep a full and true record of the proceedings of the 3003  
board and of all moneys received and expended; file and preserve 3004  
in the board's office all orders and records pertaining to the 3005  
administration of registrations, primaries, and elections; 3006  
receive and have the custody of all books, papers, and property 3007  
belonging to the board; and perform other duties in connection 3008  
with the office of director and the proper conduct of elections 3009  
as the board determines. 3010

(B) Before entering upon the duties of the office, the 3011  
director shall subscribe to an oath that the director will 3012  
support the Constitution of the United States and the Ohio 3013  
Constitution, perform all the duties of the office to the best 3014  
of the director's ability, enforce the election laws, and 3015  
preserve all records, documents, and other property pertaining 3016  
to the conduct of elections placed in the director's custody. 3017

(C) The director may administer oaths to persons required 3018  
by law to file certificates or other papers with the board, to 3019  
precinct election officials, to witnesses who are called to 3020  
testify before the board, and to voters filling out blanks at 3021  
the board's offices. Except as otherwise provided by state or 3022  
federal law, the records of the board and papers and books filed 3023  
in its office are public records and open to inspection under 3024  
such reasonable regulations as shall be established by the 3025  
board. The following notice shall be posted in a prominent place 3026  
at each board office: 3027

"Except as otherwise provided by state or federal law, 3028  
records filed in this office of the board of elections are open 3029



to public inspection during normal office hours, pursuant to the 3030  
following reasonable regulations: (the board shall here list its 3031  
regulations). Whoever prohibits any person from inspecting the 3032  
public records of this board is subject to the penalties of 3033  
section 3599.161 of the Revised Code." 3034

~~(D) Upon receipt of a written declaration of intent to 3035  
retire as provided for in section 145.38 of the Revised Code, 3036  
the director shall provide a copy to each member of the board of 3037  
elections. 3038~~

**Sec. 3701.034.** (A) As used in this section: 3039

(1) "Affiliate" means an entity that has with another 3040  
entity a legal relationship created or governed by at least one 3041  
written instrument that demonstrates any of the following: 3042

(a) Common ownership, management, or control; 3043

(b) A franchise agreement; 3044

(c) The granting or extension of a license or other 3045  
agreement that authorizes an entity to use the other entity's 3046  
brand name, trademark, service mark, or other registered 3047  
identification mark. 3048

(2) "Violence Against Women Act" means section 1910A of 3049  
section 40151 of the "Violent Crime Control and Law Enforcement 3050  
Act of 1994," part A of Title XIX of the "Public Health and 3051  
Human Services Act," 108 Stat. 1920 (1994), former 42 U.S.C. 3052  
300w, 42 U.S.C. 280b-1b, as amended. 3053

(3) "Breast and Cervical Cancer Mortality Prevention Act" 3054  
means the "Breast and Cervical Cancer Mortality Prevention Act 3055  
of 1990," 104 Stat. 409 (1990), 42 U.S.C. 300k, as amended. 3056

(4) "Infertility prevention project" means the infertility 3057

prevention project operated by the United States centers for 3058  
disease control and prevention. 3059

(5) "Minority HIV/AIDS initiative" means the minority 3060  
HIV/AIDS initiative operated by the office of minority health in 3061  
the United States department of health and human services. 3062

(B) The department of health shall ensure that all funds 3063  
it receives through the Violence Against Women Act to distribute 3064  
as grants for the purpose of education and prevention of 3065  
violence against women are not used to do any of the following: 3066

(1) Perform elective abortions; 3067

(2) Promote elective abortions; 3068

(3) Contract with any entity that performs or promotes 3069  
elective abortions; 3070

(4) Become or continue to be an affiliate of any entity 3071  
that performs or promotes elective abortions. 3072

(C) The department shall ensure that all funds it receives 3073  
through the Breast and Cervical Cancer Mortality Prevention Act 3074  
for a program to provide breast and cervical cancer screening 3075  
and diagnostic testing and all federal and state funds that it 3076  
uses to operate such a program are not used to do any of the 3077  
following: 3078

(1) Perform elective abortions; 3079

(2) Promote elective abortions; 3080

(3) Contract with any entity that performs or promotes 3081  
elective abortions; 3082

(4) Become or continue to be an affiliate of any entity 3083  
that performs or promotes elective abortions. 3084

(D) The department shall ensure that all materials it receives through the infertility prevention project are not distributed to entities that do any of the following and shall ensure that all funds it uses for treatment associated with the infertility prevention project are not used to do any of the following: 3085  
3086  
3087  
3088  
3089  
3090

(1) Perform elective abortions; 3091

(2) Promote elective abortions; 3092

(3) Contract with any entity that performs or promotes elective abortions; 3093  
3094

(4) Become or continue to be an affiliate of any entity that performs or promotes elective abortions. 3095  
3096

(E) The department shall ensure that all funds it receives through the minority HIV/AIDS initiative to distribute as grants and all other federal and state funds that are part of the grants distributed under this initiative are not used to do any of the following: 3097  
3098  
3099  
3100  
3101

(1) Perform elective abortions; 3102

(2) Promote elective abortions; 3103

(3) Contract with any entity that performs or promotes elective abortions; 3104  
3105

(4) Become or continue to be an affiliate of any entity that performs or promotes elective abortions. 3106  
3107

(F) The department shall ensure that all state funds it receives, including funding for infant mortality reduction or infant vitality initiatives, are not used to do any of the following: 3108  
3109  
3110  
3111

<u>(1) Perform elective abortions;</u>	3112
<u>(2) Promote elective abortions;</u>	3113
<u>(3) Contract with any entity that performs or promotes elective abortions;</u>	3114 3115
<u>(4) Become or continue to be an affiliate of any entity that performs or promotes elective abortions.</u>	3116 3117
<u>Sec. 5163.04. The medicaid program shall not cover the group described in section 1902(a)(10)(A)(i)(VIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).</u>	3118 3119 3120
<b>Sec. 5703.052.</b> (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by Chapter 4301., 4305., 5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 5741., 5743., 5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees or wireless 9-1-1 charges illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 128.42 or 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. Refunds for amounts illegally or erroneously assessed or collected by the tax commissioner, or for any other reason overpaid, that are due under <u>former</u> section 1509.50 of the Revised Code <u>as that section existed before its repeal by ...B... of the 131st general assembly</u> shall be paid from the fund. However, refunds for taxes levied under section 5739.101 of the Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.	3121 3122 3123 3124 3125 3126 3127 3128 3129 3130 3131 3132 3133 3134 3135 3136 3137 3138 3139 3140

(B) (1) Upon certification by the tax commissioner to the treasurer of state of a tax refund, a wireless 9-1-1 charge refund, or another amount refunded, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from the receipts of the same tax, fee, wireless 9-1-1 charge, or other amount from which the refund arose.

(2) When a refund is for a tax, fee, wireless 9-1-1 charge, or other amount that is not levied by the state or that was illegally or erroneously distributed to a taxing jurisdiction, the tax commissioner shall recover the amount of that refund from the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed thirty-six months.

**Sec. 5703.19.** (A) To carry out the purposes of the laws that the tax commissioner is required to administer, the commissioner or any person employed by the commissioner for that purpose, upon demand, may inspect books, accounts, records, and memoranda of any person or public utility subject to those laws, and may examine under oath any officer, agent, or employee of that person or public utility. Any person other than the commissioner who makes a demand pursuant to this section shall produce the person's authority to make the inspection.

(B) If a person or public utility receives at least ten days' written notice of a demand made under division (A) of this section and refuses to comply with that demand, a penalty of five hundred dollars shall be imposed upon the person or public utility for each day the person or public utility refuses to comply with the demand. Penalties imposed under this division may be assessed and collected in the same manner as assessments made under Chapter 3769., 4305., 5727., 5728., 5733., 5735., 5736., 5739., 5743., 5745., 5747., 5749., 5751., or 5753., or sections 3734.90 to 3734.9014, of the Revised Code.

(C) For the purpose of ensuring compliance with divisions (A) (10) to (13) of section 5749.02 of the Revised Code, the commissioner or any person employed by the commissioner for that purpose, upon demand, may perform the same functions referenced in division (A) of this section for any person involved in the sale, transfer, or other disposition of oil, gas, condensate, or natural gas liquids as those terms are defined in section 5749.01 of the Revised Code.

**Sec. 5739.01.** As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or

both, of tangible personal property, is or is to be transferred, 3201  
or a license to use or consume tangible personal property is or 3202  
is to be granted; 3203

(2) All transactions by which lodging by a hotel is or is 3204  
to be furnished to transient guests; 3205

(3) All transactions by which: 3206

(a) An item of tangible personal property is or is to be 3207  
repaired, except property, the purchase of which would not be 3208  
subject to the tax imposed by section 5739.02 of the Revised 3209  
Code; 3210

(b) An item of tangible personal property is or is to be 3211  
installed, except property, the purchase of which would not be 3212  
subject to the tax imposed by section 5739.02 of the Revised 3213  
Code or property that is or is to be incorporated into and will 3214  
become a part of a production, transmission, transportation, or 3215  
distribution system for the delivery of a public utility 3216  
service; 3217

(c) The service of washing, cleaning, waxing, polishing, 3218  
or painting a motor vehicle is or is to be furnished; 3219

(d) Until August 1, 2003, industrial laundry cleaning 3220  
services are or are to be provided and, on and after August 1, 3221  
2003, laundry and dry cleaning services are or are to be 3222  
provided; 3223

(e) Automatic data processing, computer services, or 3224  
electronic information services are or are to be provided for 3225  
use in business when the true object of the transaction is the 3226  
receipt by the consumer of automatic data processing, computer 3227  
services, or electronic information services rather than the 3228  
receipt of personal or professional services to which automatic 3229

data processing, computer services, or electronic information	3230
services are incidental or supplemental. Notwithstanding any	3231
other provision of this chapter, such transactions that occur	3232
between members of an affiliated group are not sales. An	3233
"affiliated group" means two or more persons related in such a	3234
way that one person owns or controls the business operation of	3235
another member of the group. In the case of corporations with	3236
stock, one corporation owns or controls another if it owns more	3237
than fifty per cent of the other corporation's common stock with	3238
voting rights.	3239
(f) Telecommunications service, including prepaid calling	3240
service, prepaid wireless calling service, or ancillary service,	3241
is or is to be provided, but not including coin-operated	3242
telephone service;	3243
(g) Landscaping and lawn care service is or is to be	3244
provided;	3245
(h) Private investigation and security service is or is to	3246
be provided;	3247
(i) Information services or tangible personal property is	3248
provided or ordered by means of a nine hundred telephone call;	3249
(j) Building maintenance and janitorial service is or is	3250
to be provided;	3251
(k) Employment service is or is to be provided;	3252
(l) Employment placement service is or is to be provided;	3253
(m) Exterminating service is or is to be provided;	3254
(n) Physical fitness facility service is or is to be	3255
provided;	3256



(o) Recreation and sports club service is or is to be provided;	3257 3258
(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;	3259 3260
(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	3261 3262 3263 3264 3265 3266 3267 3268 3269
(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;	3270 3271 3272 3273 3274 3275 3276 3277
(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.	3278 3279 3280 3281
(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that	3282 3283 3284 3285

has less than five thousand dollars in sales of such service	3286
during the calendar year.	3287
(u) Electronic publishing service is or is to be provided	3288
to a consumer for use in business, except that such transactions	3289
occurring between members of an affiliated group, as defined in	3290
division (B) (3) (e) of this section, are not sales.	3291
(4) All transactions by which printed, imprinted,	3292
overprinted, lithographic, multilithic, blueprinted,	3293
photostatic, or other productions or reproductions of written or	3294
graphic matter are or are to be furnished or transferred;	3295
(5) The production or fabrication of tangible personal	3296
property for a consideration for consumers who furnish either	3297
directly or indirectly the materials used in the production of	3298
fabrication work; and include the furnishing, preparing, or	3299
serving for a consideration of any tangible personal property	3300
consumed on the premises of the person furnishing, preparing, or	3301
serving such tangible personal property. Except as provided in	3302
section 5739.03 of the Revised Code, a construction contract	3303
pursuant to which tangible personal property is or is to be	3304
incorporated into a structure or improvement on and becoming a	3305
part of real property is not a sale of such tangible personal	3306
property. The construction contractor is the consumer of such	3307
tangible personal property, provided that the sale and	3308
installation of carpeting, the sale and installation of	3309
agricultural land tile, the sale and erection or installation of	3310
portable grain bins, or the provision of landscaping and lawn	3311
care service and the transfer of property as part of such	3312
service is never a construction contract.	3313
As used in division (B) (5) of this section:	3314

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership interest in a pass-through entity, as defined in section 5733.04 of the Revised Code, is transferred, if the corporation or pass-through entity is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders or owners;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which 3344  
tangible personal property is or is to be stored, except such 3345  
property that the consumer of the storage holds for sale in the 3346  
regular course of business; 3347

(10) All transactions in which "guaranteed auto 3348  
protection" is provided whereby a person promises to pay to the 3349  
consumer the difference between the amount the consumer receives 3350  
from motor vehicle insurance and the amount the consumer owes to 3351  
a person holding title to or a lien on the consumer's motor 3352  
vehicle in the event the consumer's motor vehicle suffers a 3353  
total loss under the terms of the motor vehicle insurance policy 3354  
or is stolen and not recovered, if the protection and its price 3355  
are included in the purchase or lease agreement; 3356

(11) (a) Except as provided in division (B) (11) (b) of this 3357  
section, on and after October 1, 2009, all transactions by which 3358  
health care services are paid for, reimbursed, provided, 3359  
delivered, arranged for, or otherwise made available by a 3360  
medicaid health insuring corporation pursuant to the 3361  
corporation's contract with the state. 3362

(b) If the centers for medicare and medicaid services of 3363  
the United States department of health and human services 3364  
determines that the taxation of transactions described in 3365  
division (B) (11) (a) of this section constitutes an impermissible 3366  
health care-related tax under the "Social Security Act," section 3367  
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 3368  
the medicaid director shall notify the tax commissioner of that 3369  
determination. Beginning with the first day of the month 3370  
following that notification, the transactions described in 3371  
division (B) (11) (a) of this section are not sales for the 3372  
purposes of this chapter or Chapter 5741. of the Revised Code. 3373

The tax commissioner shall order that the collection of taxes 3374  
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 3375  
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 3376  
for transactions occurring on or after that date. 3377

(12) All transactions by which a specified digital product 3378  
is provided for permanent use or less than permanent use, 3379  
regardless of whether continued payment is required. 3380

Except as provided in this section, "sale" and "selling" 3381  
do not include transfers of interest in leased property where 3382  
the original lessee and the terms of the original lease 3383  
agreement remain unchanged, or professional, insurance, or 3384  
personal service transactions that involve the transfer of 3385  
tangible personal property as an inconsequential element, for 3386  
which no separate charges are made. 3387

(C) "Vendor" means the person providing the service or by 3388  
whom the transfer effected or license given by a sale is or is 3389  
to be made or given and, for sales described in division (B)(3) 3390  
(i) of this section, the telecommunications service vendor that 3391  
provides the nine hundred telephone service; if two or more 3392  
persons are engaged in business at the same place of business 3393  
under a single trade name in which all collections on account of 3394  
sales by each are made, such persons shall constitute a single 3395  
vendor. 3396

Physicians, dentists, hospitals, and veterinarians who are 3397  
engaged in selling tangible personal property as received from 3398  
others, such as eyeglasses, mouthwashes, dentifrices, or similar 3399  
articles, are vendors. Veterinarians who are engaged in 3400  
transferring to others for a consideration drugs, the dispensing 3401  
of which does not require an order of a licensed veterinarian or 3402  
physician under federal law, are vendors. 3403

(D) (1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B) (3) (f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E) (1) of this section.

(4) (a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that

printed matter, and the purchase of that printed matter for that 3434  
purpose is a sale. 3435

(b) In the case of a person who produces, rather than 3436  
purchases, printed matter for the purpose of distributing it or 3437  
having it distributed to the public or to a designated segment 3438  
of the public, free of charge, that person is the consumer of 3439  
all tangible personal property and services purchased for use or 3440  
consumption in the production of that printed matter. That 3441  
person is not entitled to claim exemption under division (B) (42) 3442  
(f) of section 5739.02 of the Revised Code for any material 3443  
incorporated into the printed matter or any equipment, supplies, 3444  
or services primarily used to produce the printed matter. 3445

(c) The distribution of printed matter to the public or to 3446  
a designated segment of the public, free of charge, is not a 3447  
sale to the members of the public to whom the printed matter is 3448  
distributed or to any persons who purchase space in the printed 3449  
matter for advertising or other purposes. 3450

(5) A person who makes sales of any of the services listed 3451  
in division (B) (3) of this section is the consumer of any 3452  
tangible personal property used in performing the service. The 3453  
purchase of that property is not subject to the resale exception 3454  
under division (E) (1) of this section. 3455

(6) A person who engages in highway transportation for 3456  
hire is the consumer of all packaging materials purchased by 3457  
that person and used in performing the service, except for 3458  
packaging materials sold by such person in a transaction 3459  
separate from the service. 3460

(7) In the case of a transaction for health care services 3461  
under division (B) (11) of this section, a medicaid health 3462

insuring corporation is the consumer of such services. The 3463  
purchase of such services by a medicaid health insuring 3464  
corporation is not subject to the exception for resale under 3465  
division (E) (1) of this section or to the exemptions provided 3466  
under divisions (B) (12), (18), (19), and (22) of section 5739.02 3467  
of the Revised Code. 3468

(E) "Retail sale" and "sales at retail" include all sales, 3469  
except those in which the purpose of the consumer is to resell 3470  
the thing transferred or benefit of the service provided, by a 3471  
person engaging in business, in the form in which the same is, 3472  
or is to be, received by the person. 3473

(F) "Business" includes any activity engaged in by any 3474  
person with the object of gain, benefit, or advantage, either 3475  
direct or indirect. "Business" does not include the activity of 3476  
a person in managing and investing the person's own funds. 3477

(G) "Engaging in business" means commencing, conducting, 3478  
or continuing in business, and liquidating a business when the 3479  
liquidator thereof holds itself out to the public as conducting 3480  
such business. Making a casual sale is not engaging in business. 3481

(H) (1) (a) "Price," except as provided in divisions (H) (2), 3482  
(3), ~~and (4)~~, and (5) of this section, means the total amount of 3483  
consideration, including cash, credit, property, and services, 3484  
for which tangible personal property or services are sold, 3485  
leased, or rented, valued in money, whether received in money or 3486  
otherwise, without any deduction for any of the following: 3487

(i) The vendor's cost of the property sold; 3488

(ii) The cost of materials used, labor or service costs, 3489  
interest, losses, all costs of transportation to the vendor, all 3490  
taxes imposed on the vendor, including the tax imposed under 3491



Chapter 5751. of the Revised Code, and any other expense of the	3492
vendor;	3493
(iii) Charges by the vendor for any services necessary to	3494
complete the sale;	3495
(iv) On and after August 1, 2003, delivery charges. As	3496
used in this division, "delivery charges" means charges by the	3497
vendor for preparation and delivery to a location designated by	3498
the consumer of tangible personal property or a service,	3499
including transportation, shipping, postage, handling, crating,	3500
and packing.	3501
(v) Installation charges;	3502
(vi) Credit for any trade-in.	3503
(b) "Price" includes consideration received by the vendor	3504
from a third party, if the vendor actually receives the	3505
consideration from a party other than the consumer, and the	3506
consideration is directly related to a price reduction or	3507
discount on the sale; the vendor has an obligation to pass the	3508
price reduction or discount through to the consumer; the amount	3509
of the consideration attributable to the sale is fixed and	3510
determinable by the vendor at the time of the sale of the item	3511
to the consumer; and one of the following criteria is met:	3512
(i) The consumer presents a coupon, certificate, or other	3513
document to the vendor to claim a price reduction or discount	3514
where the coupon, certificate, or document is authorized,	3515
distributed, or granted by a third party with the understanding	3516
that the third party will reimburse any vendor to whom the	3517
coupon, certificate, or document is presented;	3518
(ii) The consumer identifies the consumer's self to the	3519
seller as a member of a group or organization entitled to a	3520

price reduction or discount. A preferred customer card that is 3521  
available to any patron does not constitute membership in such a 3522  
group or organization. 3523

(iii) The price reduction or discount is identified as a 3524  
third party price reduction or discount on the invoice received 3525  
by the consumer, or on a coupon, certificate, or other document 3526  
presented by the consumer. 3527

(c) "Price" does not include any of the following: 3528

(i) Discounts, including cash, term, or coupons that are 3529  
not reimbursed by a third party that are allowed by a vendor and 3530  
taken by a consumer on a sale; 3531

(ii) Interest, financing, and carrying charges from credit 3532  
extended on the sale of tangible personal property or services, 3533  
if the amount is separately stated on the invoice, bill of sale, 3534  
or similar document given to the purchaser; 3535

(iii) Any taxes legally imposed directly on the consumer 3536  
that are separately stated on the invoice, bill of sale, or 3537  
similar document given to the consumer. For the purpose of this 3538  
division, the tax imposed under Chapter 5751. of the Revised 3539  
Code is not a tax directly on the consumer, even if the tax or a 3540  
portion thereof is separately stated. 3541

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 3542  
this section, any discount allowed by an automobile manufacturer 3543  
to its employee, or to the employee of a supplier, on the 3544  
purchase of a new motor vehicle from a new motor vehicle dealer 3545  
in this state. 3546

(v) The dollar value of a gift card that is not sold by a 3547  
vendor or purchased by a consumer and that is redeemed by the 3548  
consumer in purchasing tangible personal property or services if 3549

the vendor is not reimbursed and does not receive compensation 3550  
from a third party to cover all or part of the gift card value. 3551  
For the purposes of this division, a gift card is not sold by a 3552  
vendor or purchased by a consumer if it is distributed pursuant 3553  
to an awards, loyalty, or promotional program. Past and present 3554  
purchases of tangible personal property or services by the 3555  
consumer shall not be treated as consideration exchanged for a 3556  
gift card. 3557

(2) In the case of a sale of any new motor vehicle by a 3558  
new motor vehicle dealer, as defined in section 4517.01 of the 3559  
Revised Code, in which another motor vehicle is accepted by the 3560  
dealer as part of the consideration received, "price" has the 3561  
same meaning as in division (H)(1) of this section, reduced by 3562  
the credit afforded the consumer by the dealer for the motor 3563  
vehicle received in trade. 3564

(3) In the case of a sale of any watercraft or outboard 3565  
motor by a watercraft dealer licensed in accordance with section 3566  
1547.543 of the Revised Code, in which another watercraft, 3567  
watercraft and trailer, or outboard motor is accepted by the 3568  
dealer as part of the consideration received, "price" has the 3569  
same meaning as in division (H)(1) of this section, reduced by 3570  
the credit afforded the consumer by the dealer for the 3571  
watercraft, watercraft and trailer, or outboard motor received 3572  
in trade. As used in this division, "watercraft" includes an 3573  
outdrive unit attached to the watercraft. 3574

(4) In the case of transactions for health care services 3575  
under division (B)(11) of this section, "price" means the amount 3576  
of managed care premiums received each month by a medicaid 3577  
health insuring corporation. 3578

(5) In the case of a sale of tangible personal property in 3579

which the vendor agrees to accept a core from the consumer as 3580  
part of the consideration received, "price" has the same meaning 3581  
as in division (H) (1) of this section, reduced by the credit 3582  
afforded to the consumer by the vendor for the core. If the core 3583  
is not received by the vendor at the time of the sale, the price 3584  
shall not be so reduced. If the core is received by the vendor 3585  
after the sale, the vendor shall refund to the consumer the 3586  
amount of tax paid on the credit afforded to the consumer for 3587  
the core. As used in division (H) (5) of this section, "core" 3588  
means an item of tangible personal property conveyed by a 3589  
consumer to a vendor for the purpose of recycling or 3590  
remanufacturing the item. 3591

(I) "Receipts" means the total amount of the prices of the 3592  
sales of vendors, provided that the dollar value of gift cards 3593  
distributed pursuant to an awards, loyalty, or promotional 3594  
program, and cash discounts allowed and taken on sales at the 3595  
time they are consummated are not included, minus any amount 3596  
deducted as a bad debt pursuant to section 5739.121 of the 3597  
Revised Code. "Receipts" does not include the sale price of 3598  
property returned or services rejected by consumers when the 3599  
full sale price and tax are refunded either in cash or by 3600  
credit. 3601

(J) "Place of business" means any location at which a 3602  
person engages in business. 3603

(K) "Premises" includes any real property or portion 3604  
thereof upon which any person engages in selling tangible 3605  
personal property at retail or making retail sales and also 3606  
includes any real property or portion thereof designated for, or 3607  
devoted to, use in conjunction with the business engaged in by 3608  
such person. 3609

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or

personnel to or from a place where a service is performed. 3640

(P) "Used directly in the rendition of a public utility 3641  
service" means that property that is to be incorporated into and 3642  
will become a part of the consumer's production, transmission, 3643  
transportation, or distribution system and that retains its 3644  
classification as tangible personal property after such 3645  
incorporation; fuel or power used in the production, 3646  
transmission, transportation, or distribution system; and 3647  
tangible personal property used in the repair and maintenance of 3648  
the production, transmission, transportation, or distribution 3649  
system, including only such motor vehicles as are specially 3650  
designed and equipped for such use. Tangible personal property 3651  
and services used primarily in providing highway transportation 3652  
for hire are not used directly in the rendition of a public 3653  
utility service. In this definition, "public utility" includes a 3654  
citizen of the United States holding, and required to hold, a 3655  
certificate of public convenience and necessity issued under 49 3656  
U.S.C. 41102. 3657

(Q) "Refining" means removing or separating a desirable 3658  
product from raw or contaminated materials by distillation or 3659  
physical, mechanical, or chemical processes. 3660

(R) "Assembly" and "assembling" mean attaching or fitting 3661  
together parts to form a product, but do not include packaging a 3662  
product. 3663

(S) "Manufacturing operation" means a process in which 3664  
materials are changed, converted, or transformed into a 3665  
different state or form from which they previously existed and 3666  
includes refining materials, assembling parts, and preparing raw 3667  
materials and parts by mixing, measuring, blending, or otherwise 3668  
committing such materials or parts to the manufacturing process. 3669

"Manufacturing operation" does not include packaging. 3670

(T) "Fiscal officer" means, with respect to a regional 3671  
transit authority, the secretary-treasurer thereof, and with 3672  
respect to a county that is a transit authority, the fiscal 3673  
officer of the county transit board if one is appointed pursuant 3674  
to section 306.03 of the Revised Code or the county auditor if 3675  
the board of county commissioners operates the county transit 3676  
system. 3677

(U) "Transit authority" means a regional transit authority 3678  
created pursuant to section 306.31 of the Revised Code or a 3679  
county in which a county transit system is created pursuant to 3680  
section 306.01 of the Revised Code. For the purposes of this 3681  
chapter, a transit authority must extend to at least the entire 3682  
area of a single county. A transit authority that includes 3683  
territory in more than one county must include all the area of 3684  
the most populous county that is a part of such transit 3685  
authority. County population shall be measured by the most 3686  
recent census taken by the United States census bureau. 3687

(V) "Legislative authority" means, with respect to a 3688  
regional transit authority, the board of trustees thereof, and 3689  
with respect to a county that is a transit authority, the board 3690  
of county commissioners. 3691

(W) "Territory of the transit authority" means all of the 3692  
area included within the territorial boundaries of a transit 3693  
authority as they from time to time exist. Such territorial 3694  
boundaries must at all times include all the area of a single 3695  
county or all the area of the most populous county that is a 3696  
part of such transit authority. County population shall be 3697  
measured by the most recent census taken by the United States 3698  
census bureau. 3699

(X) "Providing a service" means providing or furnishing 3700  
anything described in division (B) (3) of this section for 3701  
consideration. 3702

(Y) (1) (a) "Automatic data processing" means processing of 3703  
others' data, including keypunching or similar data entry 3704  
services together with verification thereof, or providing access 3705  
to computer equipment for the purpose of processing data. 3706

(b) "Computer services" means providing services 3707  
consisting of specifying computer hardware configurations and 3708  
evaluating technical processing characteristics, computer 3709  
programming, and training of computer programmers and operators, 3710  
provided in conjunction with and to support the sale, lease, or 3711  
operation of taxable computer equipment or systems. 3712

(c) "Electronic information services" means providing 3713  
access to computer equipment by means of telecommunications 3714  
equipment for the purpose of either of the following: 3715

(i) Examining or acquiring data stored in or accessible to 3716  
the computer equipment; 3717

(ii) Placing data into the computer equipment to be 3718  
retrieved by designated recipients with access to the computer 3719  
equipment. 3720

For transactions occurring on or after the effective date 3721  
of the amendment of this section by H.B. 157 of the 127th 3722  
general assembly, December 21, 2007, "electronic information 3723  
services" does not include electronic publishing as defined in 3724  
division (LLL) of this section. 3725

(d) "Automatic data processing, computer services, or 3726  
electronic information services" shall not include personal or 3727  
professional services. 3728



(2) As used in divisions (B) (3) (e) and (Y) (1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:	3729 3730 3731 3732
(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;	3733 3734 3735 3736 3737
(b) Analyzing business policies and procedures;	3738
(c) Identifying management information needs;	3739
(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;	3740 3741 3742
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	3743 3744 3745 3746 3747
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	3748 3749 3750
(g) Testing of business procedures;	3751
(h) Training personnel in business procedure applications;	3752
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not	3753 3754 3755 3756

limited to gathering, organizing, analyzing, recording, and 3757  
furnishing such information by any oral, written, graphic, or 3758  
electronic medium; 3759

(j) Providing debt collection services by any oral, 3760  
written, graphic, or electronic means. 3761

The services listed in divisions (Y) (2) (a) to (j) of this 3762  
section are not automatic data processing or computer services. 3763

(Z) "Highway transportation for hire" means the 3764  
transportation of personal property belonging to others for 3765  
consideration by any of the following: 3766

(1) The holder of a permit or certificate issued by this 3767  
state or the United States authorizing the holder to engage in 3768  
transportation of personal property belonging to others for 3769  
consideration over or on highways, roadways, streets, or any 3770  
similar public thoroughfare; 3771

(2) A person who engages in the transportation of personal 3772  
property belonging to others for consideration over or on 3773  
highways, roadways, streets, or any similar public thoroughfare 3774  
but who could not have engaged in such transportation on 3775  
December 11, 1985, unless the person was the holder of a permit 3776  
or certificate of the types described in division (Z) (1) of this 3777  
section; 3778

(3) A person who leases a motor vehicle to and operates it 3779  
for a person described by division (Z) (1) or (2) of this 3780  
section. 3781

(AA) (1) "Telecommunications service" means the electronic 3782  
transmission, conveyance, or routing of voice, data, audio, 3783  
video, or any other information or signals to a point, or 3784  
between or among points. "Telecommunications service" includes 3785

such transmission, conveyance, or routing in which computer 3786  
processing applications are used to act on the form, code, or 3787  
protocol of the content for purposes of transmission, 3788  
conveyance, or routing without regard to whether the service is 3789  
referred to as voice-over internet protocol service or is 3790  
classified by the federal communications commission as enhanced 3791  
or value-added. "Telecommunications service" does not include 3792  
any of the following: 3793

(a) Data processing and information services that allow 3794  
data to be generated, acquired, stored, processed, or retrieved 3795  
and delivered by an electronic transmission to a consumer where 3796  
the consumer's primary purpose for the underlying transaction is 3797  
the processed data or information; 3798

(b) Installation or maintenance of wiring or equipment on 3799  
a customer's premises; 3800

(c) Tangible personal property; 3801

(d) Advertising, including directory advertising; 3802

(e) Billing and collection services provided to third 3803  
parties; 3804

(f) Internet access service; 3805

(g) Radio and television audio and video programming 3806  
services, regardless of the medium, including the furnishing of 3807  
transmission, conveyance, and routing of such services by the 3808  
programming service provider. Radio and television audio and 3809  
video programming services include, but are not limited to, 3810  
cable service, as defined in 47 U.S.C. 522(6), and audio and 3811  
video programming services delivered by commercial mobile radio 3812  
service providers, as defined in 47 C.F.R. 20.3; 3813

(h) Ancillary service;	3814
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	3815 3816
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	3817 3818 3819 3820 3821 3822
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.	3823 3824 3825 3826 3827
(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.	3828 3829 3830
(c) "Directory assistance" means an ancillary service of providing telephone number or address information.	3831 3832
(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.	3833 3834 3835 3836 3837
(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.	3838 3839 3840 3841 3842

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a 3873  
telecommunications service paid for by inserting money into a 3874  
telephone accepting direct deposits of money to operate. 3875

(8) "Customer" has the same meaning as in section 5739.034 3876  
of the Revised Code. 3877

(BB) "Laundry and dry cleaning services" means removing 3878  
soil or dirt from towels, linens, articles of clothing, or other 3879  
fabric items that belong to others and supplying towels, linens, 3880  
articles of clothing, or other fabric items. "Laundry and dry 3881  
cleaning services" does not include the provision of self- 3882  
service facilities for use by consumers to remove soil or dirt 3883  
from towels, linens, articles of clothing, or other fabric 3884  
items. 3885

(CC) "Magazines distributed as controlled circulation 3886  
publications" means magazines containing at least twenty-four 3887  
pages, at least twenty-five per cent editorial content, issued 3888  
at regular intervals four or more times a year, and circulated 3889  
without charge to the recipient, provided that such magazines 3890  
are not owned or controlled by individuals or business concerns 3891  
which conduct such publications as an auxiliary to, and 3892  
essentially for the advancement of the main business or calling 3893  
of, those who own or control them. 3894

(DD) "Landscaping and lawn care service" means the 3895  
services of planting, seeding, sodding, removing, cutting, 3896  
trimming, pruning, mulching, aerating, applying chemicals, 3897  
watering, fertilizing, and providing similar services to 3898  
establish, promote, or control the growth of trees, shrubs, 3899  
flowers, grass, ground cover, and other flora, or otherwise 3900  
maintaining a lawn or landscape grown or maintained by the owner 3901  
for ornamentation or other nonagricultural purpose. However, 3902

"landscaping and lawn care service" does not include the 3903  
providing of such services by a person who has less than five 3904  
thousand dollars in sales of such services during the calendar 3905  
year. 3906

(EE) "Private investigation and security service" means 3907  
the performance of any activity for which the provider of such 3908  
service is required to be licensed pursuant to Chapter 4749. of 3909  
the Revised Code, or would be required to be so licensed in 3910  
performing such services in this state, and also includes the 3911  
services of conducting polygraph examinations and of monitoring 3912  
or overseeing the activities on or in, or the condition of, the 3913  
consumer's home, business, or other facility by means of 3914  
electronic or similar monitoring devices. "Private investigation 3915  
and security service" does not include special duty services 3916  
provided by off-duty police officers, deputy sheriffs, and other 3917  
peace officers regularly employed by the state or a political 3918  
subdivision. 3919

(FF) "Information services" means providing conversation, 3920  
giving consultation or advice, playing or making a voice or 3921  
other recording, making or keeping a record of the number of 3922  
callers, and any other service provided to a consumer by means 3923  
of a nine hundred telephone call, except when the nine hundred 3924  
telephone call is the means by which the consumer makes a 3925  
contribution to a recognized charity. 3926

(GG) "Research and development" means designing, creating, 3927  
or formulating new or enhanced products, equipment, or 3928  
manufacturing processes, and also means conducting scientific or 3929  
technological inquiry and experimentation in the physical 3930  
sciences with the goal of increasing scientific knowledge which 3931  
may reveal the bases for new or enhanced products, equipment, or 3932

manufacturing processes. 3933

(HH) "Qualified research and development equipment" means 3934  
capitalized tangible personal property, and leased personal 3935  
property that would be capitalized if purchased, used by a 3936  
person primarily to perform research and development. Tangible 3937  
personal property primarily used in testing, as defined in 3938  
division (A)(4) of section 5739.011 of the Revised Code, or used 3939  
for recording or storing test results, is not qualified research 3940  
and development equipment unless such property is primarily used 3941  
by the consumer in testing the product, equipment, or 3942  
manufacturing process being created, designed, or formulated by 3943  
the consumer in the research and development activity or in 3944  
recording or storing such test results. 3945

(II) "Building maintenance and janitorial service" means 3946  
cleaning the interior or exterior of a building and any tangible 3947  
personal property located therein or thereon, including any 3948  
services incidental to such cleaning for which no separate 3949  
charge is made. However, "building maintenance and janitorial 3950  
service" does not include the providing of such service by a 3951  
person who has less than five thousand dollars in sales of such 3952  
service during the calendar year. 3953

(JJ) "Employment service" means providing or supplying 3954  
personnel, on a temporary or long-term basis, to perform work or 3955  
labor under the supervision or control of another, when the 3956  
personnel so provided or supplied receive their wages, salary, 3957  
or other compensation from the provider or supplier of the 3958  
employment service or from a third party that provided or 3959  
supplied the personnel to the provider or supplier. "Employment 3960  
service" does not include: 3961

(1) Acting as a contractor or subcontractor, where the 3962



personnel performing the work are not under the direct control 3963  
of the purchaser. 3964

(2) Medical and health care services. 3965

(3) Supplying personnel to a purchaser pursuant to a 3966  
contract of at least one year between the service provider and 3967  
the purchaser that specifies that each employee covered under 3968  
the contract is assigned to the purchaser on a permanent basis. 3969

(4) Transactions between members of an affiliated group, 3970  
as defined in division (B) (3) (e) of this section. 3971

(5) Transactions where the personnel so provided or 3972  
supplied by a provider or supplier to a purchaser of an 3973  
employment service are then provided or supplied by that 3974  
purchaser to a third party as an employment service, except 3975  
"employment service" does include the transaction between that 3976  
purchaser and the third party. 3977

(KK) "Employment placement service" means locating or 3978  
finding employment for a person or finding or locating an 3979  
employee to fill an available position. 3980

(LL) "Exterminating service" means eradicating or 3981  
attempting to eradicate vermin infestations from a building or 3982  
structure, or the area surrounding a building or structure, and 3983  
includes activities to inspect, detect, or prevent vermin 3984  
infestation of a building or structure. 3985

(MM) "Physical fitness facility service" means all 3986  
transactions by which a membership is granted, maintained, or 3987  
renewed, including initiation fees, membership dues, renewal 3988  
fees, monthly minimum fees, and other similar fees and dues, by 3989  
a physical fitness facility such as an athletic club, health 3990  
spa, or gymnasium, which entitles the member to use the facility 3991

for physical exercise. 3992

(NN) "Recreation and sports club service" means all 3993  
transactions by which a membership is granted, maintained, or 3994  
renewed, including initiation fees, membership dues, renewal 3995  
fees, monthly minimum fees, and other similar fees and dues, by 3996  
a recreation and sports club, which entitles the member to use 3997  
the facilities of the organization. "Recreation and sports club" 3998  
means an organization that has ownership of, or controls or 3999  
leases on a continuing, long-term basis, the facilities used by 4000  
its members and includes an aviation club, gun or shooting club, 4001  
yacht club, card club, swimming club, tennis club, golf club, 4002  
country club, riding club, amateur sports club, or similar 4003  
organization. 4004

(OO) "Livestock" means farm animals commonly raised for 4005  
food, food production, or other agricultural purposes, 4006  
including, but not limited to, cattle, sheep, goats, swine, 4007  
poultry, and captive deer. "Livestock" does not include 4008  
invertebrates, amphibians, reptiles, domestic pets, animals for 4009  
use in laboratories or for exhibition, or other animals not 4010  
commonly raised for food or food production. 4011

(PP) "Livestock structure" means a building or structure 4012  
used exclusively for the housing, raising, feeding, or 4013  
sheltering of livestock, and includes feed storage or handling 4014  
structures and structures for livestock waste handling. 4015

(QQ) "Horticulture" means the growing, cultivation, and 4016  
production of flowers, fruits, herbs, vegetables, sod, 4017  
mushrooms, and nursery stock. As used in this division, "nursery 4018  
stock" has the same meaning as in section 927.51 of the Revised 4019  
Code. 4020

(RR) "Horticulture structure" means a building or 4021  
structure used exclusively for the commercial growing, raising, 4022  
or overwintering of horticultural products, and includes the 4023  
area used for stocking, storing, and packing horticultural 4024  
products when done in conjunction with the production of those 4025  
products. 4026

(SS) "Newspaper" means an unbound publication bearing a 4027  
title or name that is regularly published, at least as 4028  
frequently as biweekly, and distributed from a fixed place of 4029  
business to the public in a specific geographic area, and that 4030  
contains a substantial amount of news matter of international, 4031  
national, or local events of interest to the general public. 4032

(TT) "Professional racing team" means a person that 4033  
employs at least twenty full-time employees for the purpose of 4034  
conducting a motor vehicle racing business for profit. The 4035  
person must conduct the business with the purpose of racing one 4036  
or more motor racing vehicles in at least ten competitive 4037  
professional racing events each year that comprise all or part 4038  
of a motor racing series sanctioned by one or more motor racing 4039  
sanctioning organizations. A "motor racing vehicle" means a 4040  
vehicle for which the chassis, engine, and parts are designed 4041  
exclusively for motor racing, and does not include a stock or 4042  
production model vehicle that may be modified for use in racing. 4043  
For the purposes of this division: 4044

(1) A "competitive professional racing event" is a motor 4045  
vehicle racing event sanctioned by one or more motor racing 4046  
sanctioning organizations, at which aggregate cash prizes in 4047  
excess of eight hundred thousand dollars are awarded to the 4048  
competitors. 4049

(2) "Full-time employee" means an individual who is 4050

employed for consideration for thirty-five or more hours a week, 4051  
or who renders any other standard of service generally accepted 4052  
by custom or specified by contract as full-time employment. 4053

(UU) (1) "Lease" or "rental" means any transfer of the 4054  
possession or control of tangible personal property for a fixed 4055  
or indefinite term, for consideration. "Lease" or "rental" 4056  
includes future options to purchase or extend, and agreements 4057  
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 4058  
trailers where the amount of consideration may be increased or 4059  
decreased by reference to the amount realized upon the sale or 4060  
disposition of the property. "Lease" or "rental" does not 4061  
include: 4062

(a) A transfer of possession or control of tangible 4063  
personal property under a security agreement or a deferred 4064  
payment plan that requires the transfer of title upon completion 4065  
of the required payments; 4066

(b) A transfer of possession or control of tangible 4067  
personal property under an agreement that requires the transfer 4068  
of title upon completion of required payments and payment of an 4069  
option price that does not exceed the greater of one hundred 4070  
dollars or one per cent of the total required payments; 4071

(c) Providing tangible personal property along with an 4072  
operator for a fixed or indefinite period of time, if the 4073  
operator is necessary for the property to perform as designed. 4074  
For purposes of this division, the operator must do more than 4075  
maintain, inspect, or set up the tangible personal property. 4076

(2) "Lease" and "rental," as defined in division (UU) of 4077  
this section, shall not apply to leases or rentals that exist 4078  
before June 26, 2003. 4079

(3) "Lease" and "rental" have the same meaning as in 4080  
division (UU) (1) of this section regardless of whether a 4081  
transaction is characterized as a lease or rental under 4082  
generally accepted accounting principles, the Internal Revenue 4083  
Code, Title XIII of the Revised Code, or other federal, state, 4084  
or local laws. 4085

(VV) "Mobile telecommunications service" has the same 4086  
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 4087  
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 4088  
amended, and, on and after August 1, 2003, includes related fees 4089  
and ancillary services, including universal service fees, 4090  
detailed billing service, directory assistance, service 4091  
initiation, voice mail service, and vertical services, such as 4092  
caller ID and three-way calling. 4093

(WW) "Certified service provider" has the same meaning as 4094  
in section 5740.01 of the Revised Code. 4095

(XX) "Satellite broadcasting service" means the 4096  
distribution or broadcasting of programming or services by 4097  
satellite directly to the subscriber's receiving equipment 4098  
without the use of ground receiving or distribution equipment, 4099  
except the subscriber's receiving equipment or equipment used in 4100  
the uplink process to the satellite, and includes all service 4101  
and rental charges, premium channels or other special services, 4102  
installation and repair service charges, and any other charges 4103  
having any connection with the provision of the satellite 4104  
broadcasting service. 4105

(YY) "Tangible personal property" means personal property 4106  
that can be seen, weighed, measured, felt, or touched, or that 4107  
is in any other manner perceptible to the senses. For purposes 4108  
of this chapter and Chapter 5741. of the Revised Code, "tangible 4109

personal property" includes motor vehicles, electricity, water, 4110  
gas, steam, and prewritten computer software. 4111

(ZZ) "Direct mail" means printed material delivered or 4112  
distributed by United States mail or other delivery service to a 4113  
mass audience or to addressees on a mailing list provided by the 4114  
consumer or at the direction of the consumer when the cost of 4115  
the items are not billed directly to the recipients. "Direct 4116  
mail" includes tangible personal property supplied directly or 4117  
indirectly by the consumer to the direct mail vendor for 4118  
inclusion in the package containing the printed material. 4119  
"Direct mail" does not include multiple items of printed 4120  
material delivered to a single address. 4121

(AAA) "Computer" means an electronic device that accepts 4122  
information in digital or similar form and manipulates it for a 4123  
result based on a sequence of instructions. 4124

(BBB) "Computer software" means a set of coded 4125  
instructions designed to cause a computer or automatic data 4126  
processing equipment to perform a task. 4127

(CCC) "Delivered electronically" means delivery of 4128  
computer software from the seller to the purchaser by means 4129  
other than tangible storage media. 4130

(DDD) "Prewritten computer software" means computer 4131  
software, including prewritten upgrades, that is not designed 4132  
and developed by the author or other creator to the 4133  
specifications of a specific purchaser. The combining of two or 4134  
more prewritten computer software programs or prewritten 4135  
portions thereof does not cause the combination to be other than 4136  
prewritten computer software. "Prewritten computer software" 4137  
includes software designed and developed by the author or other 4138

creator to the specifications of a specific purchaser when it is 4139  
sold to a person other than the purchaser. If a person modifies 4140  
or enhances computer software of which the person is not the 4141  
author or creator, the person shall be deemed to be the author 4142  
or creator only of such person's modifications or enhancements. 4143  
Prewritten computer software or a prewritten portion thereof 4144  
that is modified or enhanced to any degree, where such 4145  
modification or enhancement is designed and developed to the 4146  
specifications of a specific purchaser, remains prewritten 4147  
computer software; provided, however, that where there is a 4148  
reasonable, separately stated charge or an invoice or other 4149  
statement of the price given to the purchaser for the 4150  
modification or enhancement, the modification or enhancement 4151  
shall not constitute prewritten computer software. 4152

(EEE) (1) "Food" means substances, whether in liquid, 4153  
concentrated, solid, frozen, dried, or dehydrated form, that are 4154  
sold for ingestion or chewing by humans and are consumed for 4155  
their taste or nutritional value. "Food" does not include 4156  
alcoholic beverages, dietary supplements, soft drinks, or 4157  
tobacco. 4158

(2) As used in division (EEE) (1) of this section: 4159

(a) "Alcoholic beverages" means beverages that are 4160  
suitable for human consumption and contain one-half of one per 4161  
cent or more of alcohol by volume. 4162

(b) "Dietary supplements" means any product, other than 4163  
tobacco, that is intended to supplement the diet and that is 4164  
intended for ingestion in tablet, capsule, powder, softgel, 4165  
gelcap, or liquid form, or, if not intended for ingestion in 4166  
such a form, is not represented as conventional food for use as 4167  
a sole item of a meal or of the diet; that is required to be 4168

labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) An herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure



or any function of the body. 4197

(GGG) "Prescription" means an order, formula, or recipe 4198  
issued in any form of oral, written, electronic, or other means 4199  
of transmission by a duly licensed practitioner authorized by 4200  
the laws of this state to issue a prescription. 4201

(HHH) "Durable medical equipment" means equipment, 4202  
including repair and replacement parts for such equipment, that 4203  
can withstand repeated use, is primarily and customarily used to 4204  
serve a medical purpose, generally is not useful to a person in 4205  
the absence of illness or injury, and is not worn in or on the 4206  
body. "Durable medical equipment" does not include mobility 4207  
enhancing equipment. 4208

(III) "Mobility enhancing equipment" means equipment, 4209  
including repair and replacement parts for such equipment, that 4210  
is primarily and customarily used to provide or increase the 4211  
ability to move from one place to another and is appropriate for 4212  
use either in a home or a motor vehicle, that is not generally 4213  
used by persons with normal mobility, and that does not include 4214  
any motor vehicle or equipment on a motor vehicle normally 4215  
provided by a motor vehicle manufacturer. "Mobility enhancing 4216  
equipment" does not include durable medical equipment. 4217

(JJJ) "Prosthetic device" means a replacement, corrective, 4218  
or supportive device, including repair and replacement parts for 4219  
the device, worn on or in the human body to artificially replace 4220  
a missing portion of the body, prevent or correct physical 4221  
deformity or malfunction, or support a weak or deformed portion 4222  
of the body. As used in this division, "prosthetic device" does 4223  
not include corrective eyeglasses, contact lenses, or dental 4224  
prosthesis. 4225

(KKK) (1) "Fractional aircraft ownership program" means a 4226  
program in which persons within an affiliated group sell and 4227  
manage fractional ownership program aircraft, provided that at 4228  
least one hundred airworthy aircraft are operated in the program 4229  
and the program meets all of the following criteria: 4230

(a) Management services are provided by at least one 4231  
program manager within an affiliated group on behalf of the 4232  
fractional owners. 4233

(b) Each program aircraft is owned or possessed by at 4234  
least one fractional owner. 4235

(c) Each fractional owner owns or possesses at least a 4236  
one-sixteenth interest in at least one fixed-wing program 4237  
aircraft. 4238

(d) A dry-lease aircraft interchange arrangement is in 4239  
effect among all of the fractional owners. 4240

(e) Multi-year program agreements are in effect regarding 4241  
the fractional ownership, management services, and dry-lease 4242  
aircraft interchange arrangement aspects of the program. 4243

(2) As used in division (KKK) (1) of this section: 4244

(a) "Affiliated group" has the same meaning as in division 4245  
(B) (3) (e) of this section. 4246

(b) "Fractional owner" means a person that owns or 4247  
possesses at least a one-sixteenth interest in a program 4248  
aircraft and has entered into the agreements described in 4249  
division (KKK) (1) (e) of this section. 4250

(c) "Fractional ownership program aircraft" or "program 4251  
aircraft" means a turbojet aircraft that is owned or possessed 4252  
by a fractional owner and that has been included in a dry-lease 4253

aircraft interchange arrangement and agreement under divisions 4254  
(KKK) (1) (d) and (e) of this section, or an aircraft a program 4255  
manager owns or possesses primarily for use in a fractional 4256  
aircraft ownership program. 4257

(d) "Management services" means administrative and 4258  
aviation support services furnished under a fractional aircraft 4259  
ownership program in accordance with a management services 4260  
agreement under division (KKK) (1) (e) of this section, and 4261  
offered by the program manager to the fractional owners, 4262  
including, at a minimum, the establishment and implementation of 4263  
safety guidelines; the coordination of the scheduling of the 4264  
program aircraft and crews; program aircraft maintenance; 4265  
program aircraft insurance; crew training for crews employed, 4266  
furnished, or contracted by the program manager or the 4267  
fractional owner; the satisfaction of record-keeping 4268  
requirements; and the development and use of an operations 4269  
manual and a maintenance manual for the fractional aircraft 4270  
ownership program. 4271

(e) "Program manager" means the person that offers 4272  
management services to fractional owners pursuant to a 4273  
management services agreement under division (KKK) (1) (e) of this 4274  
section. 4275

(LLL) "Electronic publishing" means providing access to 4276  
one or more of the following primarily for business customers, 4277  
including the federal government or a state government or a 4278  
political subdivision thereof, to conduct research: news; 4279  
business, financial, legal, consumer, or credit materials; 4280  
editorials, columns, reader commentary, or features; photos or 4281  
images; archival or research material; legal notices, identity 4282  
verification, or public records; scientific, educational, 4283

instructional, technical, professional, trade, or other literary 4284  
materials; or other similar information which has been gathered 4285  
and made available by the provider to the consumer in an 4286  
electronic format. Providing electronic publishing includes the 4287  
functions necessary for the acquisition, formatting, editing, 4288  
storage, and dissemination of data or information that is the 4289  
subject of a sale. 4290

(MMM) "Medicaid health insuring corporation" means a 4291  
health insuring corporation that holds a certificate of 4292  
authority under Chapter 1751. of the Revised Code and is under 4293  
contract with the department of job and family services pursuant 4294  
to section 5111.17 of the Revised Code. 4295

(NNN) "Managed care premium" means any premium, 4296  
capitation, or other payment a medicaid health insuring 4297  
corporation receives for providing or arranging for the 4298  
provision of health care services to its members or enrollees 4299  
residing in this state. 4300

(OOO) "Captive deer" means deer and other cervidae that 4301  
have been legally acquired, or their offspring, that are 4302  
privately owned for agricultural or farming purposes. 4303

(PPP) "Gift card" means a document, card, certificate, or 4304  
other record, whether tangible or intangible, that may be 4305  
redeemed by a consumer for a dollar value when making a purchase 4306  
of tangible personal property or services. 4307

(QQQ) "Specified digital product" means an electronically 4308  
transferred digital audiovisual work, digital audio work, or 4309  
digital book. 4310

As used in division (QQQ) of this section: 4311

(1) "Digital audiovisual work" means a series of related 4312

images that, when shown in succession, impart an impression of 4313  
motion, together with accompanying sounds, if any. 4314

(2) "Digital audio work" means a work that results from 4315  
the fixation of a series of musical, spoken, or other sounds, 4316  
including digitized sound files that are downloaded onto a 4317  
device and that may be used to alert the customer with respect 4318  
to a communication. 4319

(3) "Digital book" means a work that is generally 4320  
recognized in the ordinary and usual sense as a book. 4321

(4) "Electronically transferred" means obtained by the 4322  
purchaser by means other than tangible storage media. 4323

**Sec. 5747.02.** (A) For the purpose of providing revenue for 4324  
the support of schools and local government functions, to 4325  
provide relief to property taxpayers, to provide revenue for the 4326  
general revenue fund, and to meet the expenses of administering 4327  
the tax levied by this chapter, there is hereby levied on every 4328  
individual, trust, and estate residing in or earning or 4329  
receiving income in this state, on every individual, trust, and 4330  
estate earning or receiving lottery winnings, prizes, or awards 4331  
pursuant to Chapter 3770. of the Revised Code, on every 4332  
individual, trust, and estate earning or receiving winnings on 4333  
casino gaming, and on every individual, trust, and estate 4334  
otherwise having nexus with or in this state under the 4335  
Constitution of the United States, an annual tax measured in the 4336  
case of individuals by Ohio adjusted gross income less an 4337  
exemption for the taxpayer, the taxpayer's spouse, and each 4338  
dependent as provided in section 5747.025 of the Revised Code; 4339  
measured in the case of trusts by modified Ohio taxable income 4340  
under division (D) of this section; and measured in the case of 4341  
estates by Ohio taxable income. The tax imposed by this section 4342

on the balance thus obtained is hereby levied as follows:	4343
(1) <del>For taxable years beginning in 2004:</del>	4344
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4345
<del>EXEMPTIONS (INDIVIDUALS)</del>	4346
<del>OR</del>	4347
<del>MODIFIED OHIO</del>	4348
<del>TAXABLE INCOME (TRUSTS)</del>	4349
<del>OR</del>	4350
<del>OHIO TAXABLE INCOME (ESTATES) TAX</del>	4351
<del>\$5,000 or less .743%</del>	4352
<del>More than \$5,000 but \$37.15 plus 1.486% of the amount</del>	4353
<del>not more than \$10,000 in excess of \$5,000</del>	4354
<del>More than \$10,000 but \$111.45 plus 2.972% of the amount</del>	4355
<del>not more than \$15,000 in excess of \$10,000</del>	4356
<del>More than \$15,000 but \$260.05 plus 3.715% of the amount</del>	4357
<del>not more than \$20,000 in excess of \$15,000</del>	4358
<del>More than \$20,000 but \$445.80 plus 4.457% of the amount</del>	4359
<del>not more than \$40,000 in excess of \$20,000</del>	4360
<del>More than \$40,000 but \$1,337.20 plus 5.201% of the amount</del>	4361
<del>not more than \$80,000 in excess of \$40,000</del>	4362
<del>More than \$80,000 but \$3,417.60 plus 5.943% of the amount</del>	4363
<del>not more than \$100,000 in excess of \$80,000</del>	4364
<del>More than \$100,000 but \$4,606.20 plus 6.9% of the amount</del>	4365
<del>not more than \$200,000 in excess of \$100,000</del>	4366
<del>More than \$200,000 \$11,506.20 plus 7.5% of the amount</del>	4367
<del>in excess of \$200,000</del>	4368
(2) <del>For taxable years beginning in 2005:</del>	4369
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4370
<del>EXEMPTIONS (INDIVIDUALS)</del>	4371
<del>OR</del>	4372

<del>MODIFIED OHIO</del>	4373
<del>TAXABLE INCOME (TRUSTS)</del>	4374
<del>OR</del>	4375
<del>OHIO TAXABLE INCOME (ESTATES) TAX</del>	4376
<del>\$5,000 or less .712%</del>	4377
<del>More than \$5,000 but \$35.60 plus 1.424% of the amount not more than \$10,000 in excess of \$5,000</del>	4378 4379
<del>More than \$10,000 but \$106.80 plus 2.847% of the amount not more than \$15,000 in excess of \$10,000</del>	4380 4381
<del>More than \$15,000 but \$249.15 plus 3.559% of the amount not more than \$20,000 in excess of \$15,000</del>	4382 4383
<del>More than \$20,000 but \$427.10 plus 4.27% of the amount not more than \$40,000 in excess of \$20,000</del>	4384 4385
<del>More than \$40,000 but \$1,281.10 plus 4.983% of the amount not more than \$80,000 in excess of \$40,000</del>	4386 4387
<del>More than \$80,000 but \$3,274.30 plus 5.693% of the amount not more than \$100,000 in excess of \$80,000</del>	4388 4389
<del>More than \$100,000 but \$4,412.90 plus 6.61% of the amount not more than \$200,000 in excess of \$100,000</del>	4390 4391
<del>More than \$200,000 \$11,022.90 plus 7.185% of the amount in excess of \$200,000</del>	4392 4393
<del>(3) For taxable years beginning in 2006:</del>	4394
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4395
<del>EXEMPTIONS (INDIVIDUALS)</del>	4396
<del>OR</del>	4397
<del>MODIFIED OHIO</del>	4398
<del>TAXABLE INCOME (TRUSTS)</del>	4399
<del>OR</del>	4400
<del>OHIO TAXABLE INCOME (ESTATES) TAX</del>	4401
<del>\$5,000 or less .681%</del>	4402

<del>More than \$5,000 but \$34.05 plus 1.361% of the amount</del>	4403
<del>not more than \$10,000 in excess of \$5,000</del>	4404
<del>More than \$10,000 but \$102.10 plus 2.722% of the amount</del>	4405
<del>not more than \$15,000 in excess of \$10,000</del>	4406
<del>More than \$15,000 but \$238.20 plus 3.403% of the amount</del>	4407
<del>not more than \$20,000 in excess of \$15,000</del>	4408
<del>More than \$20,000 but \$408.35 plus 4.083% of the amount</del>	4409
<del>not more than \$40,000 in excess of \$20,000</del>	4410
<del>More than \$40,000 but \$1,224.95 plus 4.764% of the amount</del>	4411
<del>not more than \$80,000 in excess of \$40,000</del>	4412
<del>More than \$80,000 but \$3,130.55 plus 5.444% of the amount</del>	4413
<del>not more than \$100,000 in excess of \$80,000</del>	4414
<del>More than \$100,000 but \$4,219.35 plus 6.32% of the amount</del>	4415
<del>not more than \$200,000 in excess of \$100,000</del>	4416
<del>More than \$200,000 \$10,539.35 plus 6.87% of the amount</del>	4417
<del>in excess of \$200,000</del>	4418
<del>(4) For taxable years beginning in 2007:</del>	4419
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4420
<del>EXEMPTIONS (INDIVIDUALS)</del>	4421
<del>OR</del>	4422
<del>MODIFIED OHIO</del>	4423
<del>TAXABLE INCOME (TRUSTS)</del>	4424
<del>OR</del>	4425
<del>OHIO TAXABLE INCOME (ESTATES) TAX</del>	4426
<del>\$5,000 or less .649%</del>	4427
<del>More than \$5,000 but \$32.45 plus 1.299% of the amount</del>	4428
<del>not more than \$10,000 in excess of \$5,000</del>	4429
<del>More than \$10,000 but \$97.40 plus 2.598% of the amount</del>	4430
<del>not more than \$15,000 in excess of \$10,000</del>	4431
<del>More than \$15,000 but \$227.30 plus 3.247% of the amount</del>	4432
<del>not more than \$20,000 in excess of \$15,000</del>	4433



<del>More than \$20,000 but \$389.65 plus 3.895% of the amount</del>	4434
<del>not more than \$40,000 in excess of \$20,000</del>	4435
<del>More than \$40,000 but \$1,169.65 plus 4.546% of the amount</del>	4436
<del>not more than \$80,000 in excess of \$40,000</del>	4437
<del>More than \$80,000 but \$2,987.05 plus 5.194% of the amount</del>	4438
<del>not more than \$100,000 in excess of \$80,000</del>	4439
<del>More than \$100,000 but \$4,025.85 plus 6.031% of the amount</del>	4440
<del>not more than \$200,000 in excess of \$100,000</del>	4441
<del>More than \$200,000 \$10,056.85 plus 6.555% of the amount</del>	4442
<del>in excess of \$200,000</del>	4443
<del>(5) For taxable years beginning in 2008, 2009, or 2010:</del>	4444
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4445
<del>EXEMPTIONS (INDIVIDUALS)</del>	4446
<del>OR</del>	4447
<del>MODIFIED OHIO</del>	4448
<del>TAXABLE INCOME (TRUSTS)</del>	4449
<del>OR</del>	4450
<del>OHIO TAXABLE INCOME (ESTATES) TAX</del>	4451
<del>\$5,000 or less .618%</del>	4452
<del>More than \$5,000 but \$30.90 plus 1.236% of the amount</del>	4453
<del>not more than \$10,000 in excess of \$5,000</del>	4454
<del>More than \$10,000 but \$92.70 plus 2.473% of the amount</del>	4455
<del>not more than \$15,000 in excess of \$10,000</del>	4456
<del>More than \$15,000 but \$216.35 plus 3.091% of the amount</del>	4457
<del>not more than \$20,000 in excess of \$15,000</del>	4458
<del>More than \$20,000 but \$370.90 plus 3.708% of the amount</del>	4459
<del>not more than \$40,000 in excess of \$20,000</del>	4460
<del>More than \$40,000 but \$1,112.50 plus 4.327% of the amount</del>	4461
<del>not more than \$80,000 in excess of \$40,000</del>	4462
<del>More than \$80,000 but \$2,843.30 plus 4.945% of the amount</del>	4463

<del>not more than \$100,000 in excess of \$80,000</del>	4464
<del>More than \$100,000 but \$3,832.30 plus 5.741% of the amount</del>	4465
<del>not more than \$200,000 in excess of \$100,000</del>	4466
<del>More than \$200,000 — \$9,573.30 plus 6.24% of the amount —</del>	4467
<del>— in excess of \$200,000</del>	4468
<del>(6) For taxable years beginning in 2011 or 2012:</del>	4469
<del>OHIO ADJUSTED GROSS INCOME LESS—</del>	4470
<del>— EXEMPTIONS (INDIVIDUALS)</del>	4471
<del>— OR —</del>	4472
<del>— MODIFIED OHIO —</del>	4473
<del>— TAXABLE INCOME (TRUSTS) —</del>	4474
<del>— OR —</del>	4475
<del>OHIO TAXABLE INCOME (ESTATES) — TAX</del>	4476
<del>\$5,000 or less — .587%</del>	4477
<del>More than \$5,000 but \$29.35 plus 1.174% of the amount</del>	4478
<del>not more than \$10,000 in excess of \$5,000</del>	4479
<del>More than \$10,000 but \$88.05 plus 2.348% of the amount</del>	4480
<del>not more than \$15,000 in excess of \$10,000</del>	4481
<del>More than \$15,000 but \$205.45 plus 2.935% of the amount</del>	4482
<del>not more than \$20,000 in excess of \$15,000</del>	4483
<del>More than \$20,000 but \$352.20 plus 3.521% of the amount</del>	4484
<del>not more than \$40,000 in excess of \$20,000</del>	4485
<del>More than \$40,000 but \$1,056.40 plus 4.109% of the amount</del>	4486
<del>not more than \$80,000 in excess of \$40,000</del>	4487
<del>More than \$80,000 but \$2,700.00 plus 4.695% of the amount</del>	4488
<del>not more than \$100,000 in excess of \$80,000</del>	4489
<del>More than \$100,000 but \$3,639.00 plus 5.451% of the amount</del>	4490
<del>not more than \$200,000 in excess of \$100,000</del>	4491
<del>More than \$200,000 — \$9,090.00 plus 5.925% of the amount —</del>	4492
<del>— in excess of \$200,000</del>	4493

<del>(7) For taxable years beginning in 2013:</del>	4494
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4495
<del>EXEMPTIONS (INDIVIDUALS)</del>	4496
<del>OR</del>	4497
<del>MODIFIED OHIO</del>	4498
<del>TAXABLE INCOME (TRUSTS)</del>	4499
<del>OR</del>	4500
<del>OHIO TAXABLE INCOME (ESTATES) TAX</del>	4501
<del>\$5,000 or less .537%</del>	4502
<del>More than \$5,000 but \$26.86 plus 1.074% of the amount</del>	4503
<del>not more than \$10,000 in excess of \$5,000</del>	4504
<del>More than \$10,000 but \$80.57 plus 2.148% of the amount</del>	4505
<del>not more than \$15,000 in excess of \$10,000</del>	4506
<del>More than \$15,000 but \$187.99 plus 2.686% of the amount</del>	4507
<del>not more than \$20,000 in excess of \$15,000</del>	4508
<del>More than \$20,000 but \$322.26 plus 3.222% of the amount</del>	4509
<del>not more than \$40,000 in excess of \$20,000</del>	4510
<del>More than \$40,000 but \$966.61 plus 3.760% of the amount</del>	4511
<del>not more than \$80,000 in excess of \$40,000</del>	4512
<del>More than \$80,000 but \$2,470.50 plus 4.296% of the amount</del>	4513
<del>not more than \$100,000 in excess of \$80,000</del>	4514
<del>More than \$100,000 but \$3,329.68 plus 4.988% of the amount</del>	4515
<del>not more than \$200,000 in excess of \$100,000</del>	4516
<del>More than \$200,000 \$8,317.35 plus 5.421% of the amount</del>	4517
<del>in excess of \$200,000</del>	4518
<del>(8) For taxable years beginning in 2014 or thereafter:</del>	4519
<del>OHIO ADJUSTED GROSS INCOME LESS</del>	4520
<del>EXEMPTIONS (INDIVIDUALS)</del>	4521
<del>OR</del>	4522
<del>MODIFIED OHIO</del>	4523

TAXABLE INCOME (TRUSTS)	4524
OR	4525
OHIO TAXABLE INCOME (ESTATES) TAX	4526
\$5,000 or less .528%	4527
More than \$5,000 but \$26.41 plus 1.057% of the amount not more than \$10,000 in excess of \$5,000	4528 4529
More than \$10,000 but \$79.24 plus 2.113% of the amount not more than \$15,000 in excess of \$10,000	4530 4531
More than \$15,000 but \$184.90 plus 2.642% of the amount not more than \$20,000 in excess of \$15,000	4532 4533
More than \$20,000 but \$316.98 plus 3.169% of the amount not more than \$40,000 in excess of \$20,000	4534 4535
More than \$40,000 but \$950.76 plus 3.698% of the amount not more than \$80,000 in excess of \$40,000	4536 4537
More than \$80,000 but \$2,430.00 plus 4.226% of the amount not more than \$100,000 in excess of \$80,000	4538 4539
More than \$100,000 but \$3,275.10 plus 4.906% of the amount not more than \$200,000 in excess of \$100,000	4540 4541
More than \$200,000 \$8,181.00 plus 5.333% of the amount in excess of \$200,000	4542 4543
<u>(2) For taxable years beginning in 2015:</u>	4544
<u>OHIO ADJUSTED GROSS INCOME LESS</u>	4545
<u>EXEMPTIONS (INDIVIDUALS)</u>	4546
OR	4547
<u>MODIFIED OHIO</u>	4548
<u>TAXABLE INCOME (TRUSTS)</u>	4549
OR	4550
<u>OHIO TAXABLE INCOME (ESTATES) TAX</u>	4551
<u>\$5,000 or less 0.490%</u>	4552
<u>More than \$5,000 but \$24.50 plus 0.980% of the amount</u>	4553

<u>not more than \$10,000 in excess of \$5,000</u>	4554
<u>More than \$10,000 but \$73.51 plus 1.960% of the amount</u>	4555
<u>not more than \$15,000 in excess of \$10,000</u>	4556
<u>More than \$15,000 but \$171.51 plus 2.451% of the amount</u>	4557
<u>not more than \$20,000 in excess of \$15,000</u>	4558
<u>More than \$20,000 but \$294.07 plus 2.939% of the amount</u>	4559
<u>not more than \$40,000 in excess of \$20,000</u>	4560
<u>More than \$40,000 but \$881.93 plus 3.430% of the amount</u>	4561
<u>not more than \$80,000 in excess of \$40,000</u>	4562
<u>More than \$80,000 but \$2,254.05 plus 3.920% of the amount</u>	4563
<u>not more than \$100,000 in excess of \$80,000</u>	4564
<u>More than \$100,000 but \$3,038.11 plus 4.551% of the amount</u>	4565
<u>not more than \$200,000 in excess of \$100,000</u>	4566
<u>More than \$200,000 \$7,589.07 plus 4.947% of the amount</u>	4567
<u>in excess of \$200,000</u>	4568
<u>(3) For taxable years beginning in 2016:</u>	4569
<u>OHIO ADJUSTED GROSS INCOME LESS</u>	4570
<u>EXEMPTIONS (INDIVIDUALS)</u>	4571
<u>OR</u>	4572
<u>MODIFIED OHIO</u>	4573
<u>TAXABLE INCOME (TRUSTS)</u>	4574
<u>OR</u>	4575
<u>OHIO TAXABLE INCOME (ESTATES) TAX</u>	4576
<u>\$5,000 or less 0.465%</u>	4577
<u>More than \$5,000 but \$23.25 plus 0.930% of the amount</u>	4578
<u>not more than \$10,000 in excess of \$5,000</u>	4579
<u>More than \$10,000 but \$69.76 plus 1.860% of the amount</u>	4580
<u>not more than \$15,000 in excess of \$10,000</u>	4581
<u>More than \$15,000 but \$162.77 plus 2.326% of the amount</u>	4582
<u>not more than \$20,000 in excess of \$15,000</u>	4583

<u>More than \$20,000 but \$279.08 plus 2.789% of the amount</u>	4584
<u>not more than \$40,000 in excess of \$20,000</u>	4585
<u>More than \$40,000 but \$836.96 plus 3.255% of the amount</u>	4586
<u>not more than \$80,000 in excess of \$40,000</u>	4587
<u>More than \$80,000 but \$2,139.11 plus 3.720% of the amount</u>	4588
<u>not more than \$100,000 in excess of \$80,000</u>	4589
<u>More than \$100,000 but \$2,883.20 plus 4.319% of the amount</u>	4590
<u>not more than \$200,000 in excess of \$100,000</u>	4591
<u>More than \$200,000 \$7,202.11 plus 4.695% of the amount</u>	4592
<u>in excess of \$200,000</u>	4593
<u>(4) For taxable years beginning in 2017:</u>	4594
<u>OHIO ADJUSTED GROSS INCOME LESS</u>	4595
<u>EXEMPTIONS (INDIVIDUALS)</u>	4596
<u>OR</u>	4597
<u>MODIFIED OHIO</u>	4598
<u>TAXABLE INCOME (TRUSTS)</u>	4599
<u>OR</u>	4600
<u>OHIO TAXABLE INCOME (ESTATES) TAX</u>	4601
<u>\$5,000 or less 0.310%</u>	4602
<u>More than \$5,000 but \$15.50 plus 0.620% of the amount</u>	4603
<u>not more than \$10,000 in excess of \$5,000</u>	4604
<u>More than \$10,000 but \$46.51 plus 1.240% of the amount</u>	4605
<u>not more than \$15,000 in excess of \$10,000</u>	4606
<u>More than \$15,000 but \$108.51 plus 1.551% of the amount</u>	4607
<u>not more than \$20,000 in excess of \$15,000</u>	4608
<u>More than \$20,000 but \$186.05 plus 1.860% of the amount</u>	4609
<u>not more than \$40,000 in excess of \$20,000</u>	4610
<u>More than \$40,000 but \$557.97 plus 2.170% of the amount</u>	4611
<u>not more than \$80,000 in excess of \$40,000</u>	4612
<u>More than \$80,000 but \$1,426.08 plus 2.480% of the amount</u>	4613

<u>not more than \$100,000 in excess of \$80,000</u>	4614
<u>More than \$100,000 but \$1,922.13 plus 2.879% of the amount</u>	4615
<u>not more than \$200,000 in excess of \$100,000</u>	4616
<u>More than \$200,000 \$4,801.41 plus 3.130% of the amount</u>	4617
<u>in excess of \$200,000</u>	4618
<u>(5) For taxable years beginning in 2018:</u>	4619
<u>OHIO ADJUSTED GROSS INCOME LESS</u>	4620
<u>EXEMPTIONS (INDIVIDUALS)</u>	4621
<u>OR</u>	4622
<u>MODIFIED OHIO</u>	4623
<u>TAXABLE INCOME (TRUSTS)</u>	4624
<u>OR</u>	4625
<u>OHIO TAXABLE INCOME (ESTATES) TAX</u>	4626
<u>\$5,000 or less 0.155%</u>	4627
<u>More than \$5,000 but \$7.75 plus 0.310% of the amount</u>	4628
<u>not more than \$10,000 in excess of \$5,000</u>	4629
<u>More than \$10,000 but \$23.25 plus 0.620% of the amount</u>	4630
<u>not more than \$15,000 in excess of \$10,000</u>	4631
<u>More than \$15,000 but \$54.26 plus 0.775% of the amount</u>	4632
<u>not more than \$20,000 in excess of \$15,000</u>	4633
<u>More than \$20,000 but \$93.03 plus 0.930% of the amount</u>	4634
<u>not more than \$40,000 in excess of \$20,000</u>	4635
<u>More than \$40,000 but \$278.99 plus 1.085% of the amount</u>	4636
<u>not more than \$80,000 in excess of \$40,000</u>	4637
<u>More than \$80,000 but \$713.04 plus 1.240% of the amount</u>	4638
<u>not more than \$100,000 in excess of \$80,000</u>	4639
<u>More than \$100,000 but \$961.07 plus 1.440% of the amount</u>	4640
<u>not more than \$200,000 in excess of \$100,000</u>	4641
<u>More than \$200,000 \$2,400.70 plus 1.565% of the</u>	4642
<u>amount in excess of \$200,000</u>	4643

(6) For taxable years beginning in or after 2019, no tax 4644  
is levied under this section. 4645

~~Except as otherwise provided in this division, in August~~ 4646  
~~of each year, the tax commissioner shall make a new adjustment~~ 4647  
~~to the income amounts prescribed in this division by multiplying~~ 4648  
~~the percentage increase in the gross domestic product deflator~~ 4649  
~~computed that year under section 5747.025 of the Revised Code by~~ 4650  
~~each of the income amounts resulting from the adjustment under~~ 4651  
~~this division in the preceding year, adding the resulting~~ 4652  
~~product to the corresponding income amount resulting from the~~ 4653  
~~adjustment in the preceding year, and rounding the resulting sum~~ 4654  
~~to the nearest multiple of fifty dollars. The tax commissioner~~ 4655  
~~also shall recompute each of the tax dollar amounts to the~~ 4656  
~~extent necessary to reflect the new adjustment of the income~~ 4657  
~~amounts. The rates of taxation shall not be adjusted.~~ 4658

~~The adjusted amounts apply to taxable years beginning in~~ 4659  
~~the calendar year in which the adjustments are made and to~~ 4660  
~~taxable years beginning in each ensuing calendar year until a~~ 4661  
~~calendar year in which a new adjustment is made pursuant to this~~ 4662  
~~division. The tax commissioner shall not make a new adjustment~~ 4663  
~~in any year in which the amount resulting from the adjustment~~ 4664  
~~would be less than the amount resulting from the adjustment in~~ 4665  
~~the preceding year. The commissioner shall not make a new~~ 4666  
~~adjustment for taxable years beginning in 2013, 2014, or 2015.~~ 4667

(B) If the director of budget and management makes a 4668  
certification to the tax commissioner under division (B) of 4669  
section 131.44 of the Revised Code, the amount of tax as 4670  
determined under division (A) of this section shall be reduced 4671  
by the percentage prescribed in that certification for taxable 4672  
years beginning in the calendar year in which that certification 4673



is made. 4674

(C) The levy of this tax on income does not prevent a 4675  
municipal corporation, a joint economic development zone created 4676  
under section 715.691, or a joint economic development district 4677  
created under section 715.70 or 715.71 or sections 715.72 to 4678  
715.81 of the Revised Code from levying a tax on income. 4679

(D) This division applies only to taxable years of a trust 4680  
beginning in 2002 or thereafter. 4681

(1) The tax imposed by this section on a trust shall be 4682  
computed by multiplying the Ohio modified taxable income of the 4683  
trust by the rates prescribed by division (A) of this section. 4684

(2) A resident trust may claim a credit against the tax 4685  
computed under division (D) of this section equal to the lesser 4686  
of (1) the tax paid to another state or the District of Columbia 4687  
on the resident trust's modified nonbusiness income, other than 4688  
the portion of the resident trust's nonbusiness income that is 4689  
qualifying investment income as defined in section 5747.012 of 4690  
the Revised Code, or (2) the effective tax rate, based on 4691  
modified Ohio taxable income, multiplied by the resident trust's 4692  
modified nonbusiness income other than the portion of the 4693  
resident trust's nonbusiness income that is qualifying 4694  
investment income. The credit applies before any other 4695  
applicable credits. 4696

(3) The credits enumerated in divisions (A) (1) to (13) of 4697  
section 5747.98 of the Revised Code do not apply to a trust 4698  
subject to division (D) of this section. Any credits enumerated 4699  
in other divisions of section 5747.98 of the Revised Code apply 4700  
to a trust subject to division (D) of this section. To the 4701  
extent that the trust distributes income for the taxable year 4702

for which a credit is available to the trust, the credit shall 4703  
be shared by the trust and its beneficiaries. The tax 4704  
commissioner and the trust shall be guided by applicable 4705  
regulations of the United States treasury regarding the sharing 4706  
of credits. 4707

(E) For the purposes of this section, "trust" means any 4708  
trust described in Subchapter J of Chapter 1 of the Internal 4709  
Revenue Code, excluding trusts that are not irrevocable as 4710  
defined in division (I) (3) (b) of section 5747.01 of the Revised 4711  
Code and that have no modified Ohio taxable income for the 4712  
taxable year, charitable remainder trusts, qualified funeral 4713  
trusts and preneed funeral contract trusts established pursuant 4714  
to sections 4717.31 to 4717.38 of the Revised Code that are not 4715  
qualified funeral trusts, endowment and perpetual care trusts, 4716  
qualified settlement trusts and funds, designated settlement 4717  
trusts and funds, and trusts exempted from taxation under 4718  
section 501(a) of the Internal Revenue Code. 4719

Sec. 5747.027. (A) As used in this section, "income tax 4720  
expenditure" means any credit, deduction, exemption, or other 4721  
tax provision in the Revised Code that effectively exempts 4722  
income from the tax imposed under section 5747.02 of the Revised 4723  
Code, except for any such provision required to be allowed under 4724  
federal law. 4725

(B) For taxable years beginning on or after January 1, 4726  
2015, but before January 1, 2019, a taxpayer shall not claim or 4727  
take more than the following percentage of the amount of any 4728  
income tax expenditure that the taxpayer is otherwise entitled 4729  
to take or claim: 4730

(1) For taxable years beginning in 2015, ninety-three per 4731  
cent. 4732

<u>(2) For taxable years beginning in 2016, eighty-eight per cent.</u>	4733
	4734
<u>(3) For taxable years beginning in 2017, fifty-nine per cent.</u>	4735
	4736
<u>(4) For taxable years beginning in 2018, twenty-nine per cent.</u>	4737
	4738
<u>(5) For taxable years beginning in 2019, fifty per cent.</u>	4739
<u>(C) Nothing in this section prohibits a taxpayer disallowed from claiming the full amount of a credit because of this section against the tax imposed under section 5747.02 of the Revised Code from claiming the credit amount so disallowed against another tax, provided the credit is authorized to be claimed against that other tax.</u>	4740
	4741
	4742
	4743
	4744
	4745
<b>Sec. 5747.05.</b> As used in this section, "income tax" includes both a tax on net income and a tax measured by net income.	4746
	4747
	4748
The following credits shall be allowed against the income tax imposed by section 5747.02 of the Revised Code on individuals and estates:	4749
	4750
	4751
(A) (1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of any nonresident taxpayer that is not allocable or apportionable to this state pursuant to sections 5747.20 to 5747.23 of the Revised Code;	4752
	4753
	4754
	4755
	4756
(2) The credit provided under this division shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the nonresident taxpayer's adjusted gross income not allocated to this state pursuant to	4757
	4758
	4759
	4760

sections 5747.20 to 5747.23 of the Revised Code bears to the 4761  
total adjusted gross income of the nonresident taxpayer derived 4762  
from all sources everywhere. 4763

(3) The tax commissioner may enter into an agreement with 4764  
the taxing authorities of any state or of the District of 4765  
Columbia that imposes an income tax to provide that compensation 4766  
paid in this state to a nonresident taxpayer shall not be 4767  
subject to the tax levied in section 5747.02 of the Revised Code 4768  
so long as compensation paid in such other state or in the 4769  
District of Columbia to a resident taxpayer shall likewise not 4770  
be subject to the income tax of such other state or of the 4771  
District of Columbia. 4772

(B) The lesser of division (B) (1) or (2) of this section: 4773

(1) The amount of tax otherwise due under section 5747.02 4774  
of the Revised Code on such portion of the adjusted gross income 4775  
of a resident taxpayer that in another state or in the District 4776  
of Columbia is subjected to an income tax. The credit provided 4777  
under division (B) (1) of this section shall not exceed the 4778  
portion of the total tax due under section 5747.02 of the 4779  
Revised Code that the amount of the resident taxpayer's adjusted 4780  
gross income subjected to an income tax in the other state or in 4781  
the District of Columbia bears to the total adjusted gross 4782  
income of the resident taxpayer derived from all sources 4783  
everywhere. 4784

(2) The amount of income tax liability to another state or 4785  
the District of Columbia on the portion of the adjusted gross 4786  
income of a resident taxpayer that in another state or in the 4787  
District of Columbia is subjected to an income tax. The credit 4788  
provided under division (B) (2) of this section shall not exceed 4789  
the amount of tax otherwise due under section 5747.02 of the 4790

Revised Code. 4791

(3) If the credit provided under division (B) of this 4792  
section is affected by a change in either the portion of 4793  
adjusted gross income of a resident taxpayer subjected to an 4794  
income tax in another state or the District of Columbia or the 4795  
amount of income tax liability that has been paid to another 4796  
state or the District of Columbia, the taxpayer shall report the 4797  
change to the tax commissioner within sixty days of the change 4798  
in such form as the commissioner requires. 4799

(a) In the case of an underpayment, the report shall be 4800  
accompanied by payment of any additional tax due as a result of 4801  
the reduction in credit together with interest on the additional 4802  
tax and is a return subject to assessment under section 5747.13 4803  
of the Revised Code solely for the purpose of assessing any 4804  
additional tax due under this division, together with any 4805  
applicable penalty and interest. It shall not reopen the 4806  
computation of the taxpayer's tax liability under this chapter 4807  
from a previously filed return no longer subject to assessment 4808  
except to the extent that such liability is affected by an 4809  
adjustment to the credit allowed by division (B) of this 4810  
section. 4811

(b) In the case of an overpayment, an application for 4812  
refund may be filed under this division within the sixty-day 4813  
period prescribed for filing the report even if it is beyond the 4814  
period prescribed in section 5747.11 of the Revised Code if it 4815  
otherwise conforms to the requirements of such section. An 4816  
application filed under this division shall only claim refund of 4817  
overpayments resulting from an adjustment to the credit allowed 4818  
by division (B) of this section unless it is also filed within 4819  
the time prescribed in section 5747.11 of the Revised Code. It 4820

shall not reopen the computation of the taxpayer's tax liability 4821  
except to the extent that such liability is affected by an 4822  
adjustment to the credit allowed by division (B) of this 4823  
section. 4824

(4) No credit shall be allowed under division (B) of this 4825  
section for income tax paid or accrued to another state or to 4826  
the District of Columbia if the taxpayer, when computing federal 4827  
adjusted gross income, has directly or indirectly deducted, or 4828  
was required to directly or indirectly deduct, the amount of 4829  
that income tax. 4830

(C) For a taxpayer sixty-five years of age or older during 4831  
the taxable year, a credit for such year equal to fifty dollars 4832  
for each return required to be filed under section 5747.08 of 4833  
the Revised Code. 4834

(D) A taxpayer sixty-five years of age or older during the 4835  
taxable year who has received a lump-sum distribution from a 4836  
pension, retirement, or profit-sharing plan in the taxable year 4837  
may elect to receive a credit under this division in lieu of the 4838  
credit to which the taxpayer is entitled under division (C) of 4839  
this section. A taxpayer making such election shall receive a 4840  
credit for the taxable year equal to fifty dollars times the 4841  
taxpayer's expected remaining life as shown by annuity tables 4842  
issued under the provisions of the Internal Revenue Code and in 4843  
effect for the calendar year which includes the last day of the 4844  
taxable year. A taxpayer making an election under this division 4845  
is not entitled to the credit authorized under division (C) of 4846  
this section in subsequent taxable years except that if such 4847  
election was made prior to July 1, 1983, the taxpayer is 4848  
entitled to one-half the credit authorized under such division 4849  
in subsequent taxable years but may not make another election 4850

under this division. 4851

(E) A taxpayer who is not sixty-five years of age or older 4852  
during the taxable year who has received a lump-sum distribution 4853  
from a pension, retirement, or profit-sharing plan in a taxable 4854  
year ending on or before July 31, 1991, may elect to take a 4855  
credit against the tax otherwise due under this chapter for such 4856  
year equal to fifty dollars times the expected remaining life of 4857  
a taxpayer sixty-five years of age as shown by annuity tables 4858  
issued under the provisions of the Internal Revenue Code and in 4859  
effect for the calendar year which includes the last day of the 4860  
taxable year. A taxpayer making an election under this division 4861  
is not entitled to a credit under division (C) or (D) of this 4862  
section in any subsequent year except that if such election was 4863  
made prior to July 1, 1983, the taxpayer is entitled to one-half 4864  
the credit authorized under division (C) of this section in 4865  
subsequent years but may not make another election under this 4866  
division. No taxpayer may make an election under this division 4867  
for a taxable year ending on or after August 1, 1991. 4868

(F) A taxpayer making an election under either division 4869  
(D) or (E) of this section may make only one such election in 4870  
the taxpayer's lifetime. 4871

(G) (1) On a joint return filed by a husband and wife, ~~each~~ 4872  
~~of whom had adjusted gross income of at least five hundred~~ 4873  
~~dollars, exclusive of interest, dividends and distributions,~~ 4874  
~~royalties, rent, and capital gains,~~ a nonrefundable credit equal 4875  
to the ~~percentage shown in the table contained in this division~~ 4876  
~~of the amount of tax due difference of the amount of tax shown~~ 4877  
to be due on the joint return minus the husband's and wife's 4878  
minimum combined amount of tax, after allowing for any other 4879  
credit that precedes the credit under this division in the order 4880

required under section 5747.98 of the Revised Code. 4881

~~(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:~~ 4882  
4883  
4884  
4885

~~\_\_\_\_\_ A. \_\_\_\_\_ B. 4886~~

~~IF THE ADJUSTED GROSS INCOME, \_\_\_\_\_ THE CREDIT FOR THE TAXABLE 4887~~

~~LESS EXEMPTIONS, FOR THE \_\_\_\_\_ YEAR IS: 4888~~

~~TAX YEAR IS: 4889~~

~~\$25,000 or less 20% 4890~~

~~More than \$25,000 but not more \_\_\_\_\_ 15% 4891~~

~~than \$50,000 \_\_\_\_\_ 4892~~

~~More than \$50,000 but not more \_\_\_\_\_ 10% 4893~~

~~than \$75,000 4894~~

~~More than \$75,000 \_\_\_\_\_ 5% 4895~~

~~(3) The credit allowed under this division shall not 4896~~

~~exceed six hundred fifty dollars in any taxable year. 4897~~

As used in this division: 4898

(a) "Minimum combined amount of tax" means the sum of the 4899

tax that would be due on the husband's and wife's returns if the 4900

husband and wife filed separate returns and made all adjustments 4901

and claimed all credits to which the husband and wife would be 4902

required or allowed to make or claim on each separate return. 4903

For the purpose of calculating "minimum combined amount of tax," 4904

adjustments or credits that could be taken or claimed by either 4905

the husband or wife on the husband's or wife's separate return 4906

shall be deemed to be claimed by each spouse in a manner that 4907

would result in the least combined tax due. 4908

(b) "Adjustment" means a deduction taken on a federal 4909



income tax return that is included in the computation of the 4910  
husband's or the wife's federal adjusted gross income or an 4911  
addition or deduction described in division (A) of section 4912  
5747.01 of the Revised Code and allowed to the husband or wife. 4913

(c) "Credit" means any credit described in section 5747.98 4914  
of the Revised Code. 4915

(H) No claim for credit under this section shall be 4916  
allowed unless the claimant furnishes such supporting 4917  
information as the tax commissioner prescribes by rules. Each 4918  
credit under this section shall be claimed in the order required 4919  
under section 5747.98 of the Revised Code. 4920

(I) An individual who is a resident for part of a taxable 4921  
year and a nonresident for the remainder of the taxable year is 4922  
allowed the credits under divisions (A) and (B) of this section 4923  
in accordance with rules prescribed by the tax commissioner. In 4924  
no event shall the same income be subject to both credits. 4925

(J) The credit allowed under division (A) of this section 4926  
shall be calculated based upon the amount of tax due under 4927  
section 5747.02 of the Revised Code after subtracting any other 4928  
credits that precede the credit under that division in the order 4929  
required under section 5747.98 of the Revised Code. The credit 4930  
allowed under division (B) of this section shall be calculated 4931  
based upon the amount of tax due under section 5747.02 of the 4932  
Revised Code after subtracting any other credits that precede 4933  
the credit under that division in the order required under 4934  
section 5747.98 of the Revised Code. 4935

(K) No credit shall be allowed under division (B) of this 4936  
section unless the taxpayer furnishes such proof as the tax 4937  
commissioner shall require that the income tax liability has 4938

been paid to another state or the District of Columbia. 4939

(L) No credit shall be allowed under division (B) of this 4940  
section for compensation that is not subject to the income tax 4941  
of another state or the District of Columbia as the result of an 4942  
agreement entered into by the tax commissioner under division 4943  
(A) (3) of this section. 4944

**Sec. 5747.08.** An annual return with respect to the tax 4945  
imposed by section 5747.02 of the Revised Code and each tax 4946  
imposed under Chapter 5748. of the Revised Code shall be made by 4947  
every taxpayer for any taxable year for which the taxpayer is 4948  
liable for the tax imposed by that section or under that 4949  
chapter, unless the total credits allowed under divisions (E), 4950  
(F), and (G) of section 5747.05 of the Revised Code for the year 4951  
are equal to or exceed the tax imposed by section 5747.02 of the 4952  
Revised Code, in which case no return shall be required unless 4953  
the taxpayer is liable for a tax imposed pursuant to Chapter 4954  
5748. of the Revised Code. 4955

(A) If an individual is deceased, any return or notice 4956  
required of that individual under this chapter shall be made and 4957  
filed by that decedent's executor, administrator, or other 4958  
person charged with the property of that decedent. 4959

(B) If an individual is unable to make a return or notice 4960  
required by this chapter, the return or notice required of that 4961  
individual shall be made and filed by the individual's duly 4962  
authorized agent, guardian, conservator, fiduciary, or other 4963  
person charged with the care of the person or property of that 4964  
individual. 4965

(C) Returns or notices required of an estate or a trust 4966  
shall be made and filed by the fiduciary of the estate or trust. 4967

(D) (1) (a) Except as otherwise provided in division (D) (1) 4968  
(b) of this section, any pass-through entity may file a single 4969  
return on behalf of one or more of the entity's investors other 4970  
than an investor that is a person subject to the tax imposed 4971  
under section 5733.06 of the Revised Code. The single return 4972  
shall set forth the name, address, and social security number or 4973  
other identifying number of each of those pass-through entity 4974  
investors and shall indicate the distributive share of each of 4975  
those pass-through entity investor's income taxable in this 4976  
state in accordance with sections 5747.20 to 5747.231 of the 4977  
Revised Code. Such pass-through entity investors for whom the 4978  
pass-through entity elects to file a single return are not 4979  
entitled to the exemption or credit provided for by sections 4980  
5747.02 and 5747.022 of the Revised Code; shall calculate the 4981  
tax before business credits at the highest rate of tax set forth 4982  
in section 5747.02 of the Revised Code for the taxable year for 4983  
which the return is filed; and are entitled to only their 4984  
distributive share of the business credits as defined in 4985  
division (D) (2) of this section. A single check drawn by the 4986  
pass-through entity shall accompany the return in full payment 4987  
of the tax due, as shown on the single return, for such 4988  
investors, other than investors who are persons subject to the 4989  
tax imposed under section 5733.06 of the Revised Code. 4990

(b) (i) A pass-through entity shall not include in such a 4991  
single return any investor that is a trust to the extent that 4992  
any direct or indirect current, future, or contingent 4993  
beneficiary of the trust is a person subject to the tax imposed 4994  
under section 5733.06 of the Revised Code. 4995

(ii) A pass-through entity shall not include in such a 4996  
single return any investor that is itself a pass-through entity 4997  
to the extent that any direct or indirect investor in the second 4998

pass-through entity is a person subject to the tax imposed under 4999  
section 5733.06 of the Revised Code. 5000

(c) Nothing in division (D) of this section precludes the 5001  
tax commissioner from requiring such investors to file the 5002  
return and make the payment of taxes and related interest, 5003  
penalty, and interest penalty required by this section or 5004  
section 5747.02, 5747.09, or 5747.15 of the Revised Code. 5005  
Nothing in division (D) of this section precludes such an 5006  
investor from filing the annual return under this section, 5007  
utilizing the refundable credit equal to the investor's 5008  
proportionate share of the tax paid by the pass-through entity 5009  
on behalf of the investor under division (I) of this section, 5010  
and making the payment of taxes imposed under section 5747.02 of 5011  
the Revised Code. Nothing in division (D) of this section shall 5012  
be construed to provide to such an investor or pass-through 5013  
entity any additional deduction or credit, other than the credit 5014  
provided by division (I) of this section, solely on account of 5015  
the entity's filing a return in accordance with this section. 5016  
Such a pass-through entity also shall make the filing and 5017  
payment of estimated taxes on behalf of the pass-through entity 5018  
investors other than an investor that is a person subject to the 5019  
tax imposed under section 5733.06 of the Revised Code. 5020

(2) For the purposes of this section, "business credits" 5021  
means the credits listed in section 5747.98 of the Revised Code 5022  
excluding the following credits: 5023

(a) The retirement credit under division (B) of section 5024  
5747.055 of the Revised Code; 5025

(b) The senior citizen credit under division (C) of 5026  
section 5747.05 of the Revised Code; 5027

(c) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	5028 5029
(d) The dependent care credit under section 5747.054 of the Revised Code;	5030 5031
(e) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	5032 5033
(f) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	5034 5035
(g) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	5036 5037
(h) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	5038 5039
(i) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	5040 5041
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	5042 5043
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	5044 5045
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	5046 5047
(m) The low-income credit under section 5747.056 of the Revised Code;	5048 5049
(n) The earned income tax credit under section 5747.71 of the Revised Code.	5050 5051
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner	5052 5053 5054

provides otherwise, this election, once made, is binding and 5055  
irrevocable for the taxable year for which the election is made. 5056  
Nothing in this division shall be construed to provide for any 5057  
deduction or credit that would not be allowable if a nonresident 5058  
pass-through entity investor were to file an annual return. 5059

(4) If a pass-through entity makes the election provided 5060  
for under division (D) of this section, the pass-through entity 5061  
shall be liable for any additional taxes, interest, interest 5062  
penalty, or penalties imposed by this chapter if the tax 5063  
commissioner finds that the single return does not reflect the 5064  
correct tax due by the pass-through entity investors covered by 5065  
that return. Nothing in this division shall be construed to 5066  
limit or alter the liability, if any, imposed on pass-through 5067  
entity investors for unpaid or underpaid taxes, interest, 5068  
interest penalty, or penalties as a result of the pass-through 5069  
entity's making the election provided for under division (D) of 5070  
this section. For the purposes of division (D) of this section, 5071  
"correct tax due" means the tax that would have been paid by the 5072  
pass-through entity had the single return been filed in a manner 5073  
reflecting the commissioner's findings. Nothing in division (D) 5074  
of this section shall be construed to make or hold a pass- 5075  
through entity liable for tax attributable to a pass-through 5076  
entity investor's income from a source other than the pass- 5077  
through entity electing to file the single return. 5078

(E) If a husband and wife file a joint federal income tax 5079  
return for a taxable year, they ~~shall~~may elect to file a joint 5080  
return or separate returns under this section for that taxable 5081  
year, and, pursuant to that election, their liabilities are 5082  
separate if they file separate returns or joint and several, 5083  
~~but,~~ if they file a joint return. If the federal income tax 5084  
liability of either spouse is determined on a separate federal 5085

income tax return, ~~they shall file separate returns under this~~ 5086  
~~section.~~ 5087

~~If or if~~ either spouse is not required to file a federal 5088  
income tax return and either or both are required to file a 5089  
return pursuant to this chapter, they may elect to file separate 5090  
or joint returns, and, pursuant to that election, their 5091  
liabilities are separate or joint and several. If a husband and 5092  
wife file separate returns pursuant to this chapter, each must 5093  
claim the taxpayer's own exemption, but not both, as authorized 5094  
under section 5747.02 of the Revised Code on the taxpayer's own 5095  
return. 5096

(F) Each return or notice required to be filed under this 5097  
section shall contain the signature of the taxpayer or the 5098  
taxpayer's duly authorized agent and of the person who prepared 5099  
the return for the taxpayer, and shall include the taxpayer's 5100  
social security number. Each return shall be verified by a 5101  
declaration under the penalties of perjury. The tax commissioner 5102  
shall prescribe the form that the signature and declaration 5103  
shall take. 5104

(G) Each return or notice required to be filed under this 5105  
section shall be made and filed as required by section 5747.04 5106  
of the Revised Code, on or before the fifteenth day of April of 5107  
each year, on forms that the tax commissioner shall prescribe, 5108  
together with remittance made payable to the treasurer of state 5109  
in the combined amount of the state and all school district 5110  
income taxes shown to be due on the form. 5111

Upon good cause shown, the commissioner may extend the 5112  
period for filing any notice or return required to be filed 5113  
under this section and may adopt rules relating to extensions. 5114  
If the extension results in an extension of time for the payment 5115

of any state or school district income tax liability with 5116  
respect to which the return is filed, the taxpayer shall pay at 5117  
the time the tax liability is paid an amount of interest 5118  
computed at the rate per annum prescribed by section 5703.47 of 5119  
the Revised Code on that liability from the time that payment is 5120  
due without extension to the time of actual payment. Except as 5121  
provided in section 5747.132 of the Revised Code, in addition to 5122  
all other interest charges and penalties, all taxes imposed 5123  
under this chapter or Chapter 5748. of the Revised Code and 5124  
remaining unpaid after they become due, except combined amounts 5125  
due of one dollar or less, bear interest at the rate per annum 5126  
prescribed by section 5703.47 of the Revised Code until paid or 5127  
until the day an assessment is issued under section 5747.13 of 5128  
the Revised Code, whichever occurs first. 5129

If the commissioner considers it necessary in order to 5130  
ensure the payment of the tax imposed by section 5747.02 of the 5131  
Revised Code or any tax imposed under Chapter 5748. of the 5132  
Revised Code, the commissioner may require returns and payments 5133  
to be made otherwise than as provided in this section. 5134

To the extent that any provision in this division 5135  
conflicts with any provision in section 5747.026 of the Revised 5136  
Code, the provision in that section prevails. 5137

(H) The amounts withheld by an employer pursuant to 5138  
section 5747.06 of the Revised Code, a casino operator pursuant 5139  
to section 5747.063 of the Revised Code, or a lottery sales 5140  
agent pursuant to section 5747.064 of the Revised Code shall be 5141  
allowed to the recipient of the compensation casino winnings, or 5142  
lottery prize award as credits against payment of the 5143  
appropriate taxes imposed on the recipient by section 5747.02 5144  
and under Chapter 5748. of the Revised Code. 5145



(I) If a pass-through entity elects to file a single 5146  
return under division (D) of this section and if any investor is 5147  
required to file the annual return and make the payment of taxes 5148  
required by this chapter on account of the investor's other 5149  
income that is not included in a single return filed by a pass- 5150  
through entity or any other investor elects to file the annual 5151  
return, the investor is entitled to a refundable credit equal to 5152  
the investor's proportionate share of the tax paid by the pass- 5153  
through entity on behalf of the investor. The investor shall 5154  
claim the credit for the investor's taxable year in which or 5155  
with which ends the taxable year of the pass-through entity. 5156  
Nothing in this chapter shall be construed to allow any credit 5157  
provided in this chapter to be claimed more than once. For the 5158  
purpose of computing any interest, penalty, or interest penalty, 5159  
the investor shall be deemed to have paid the refundable credit 5160  
provided by this division on the day that the pass-through 5161  
entity paid the estimated tax or the tax giving rise to the 5162  
credit. 5163

(J) The tax commissioner shall ensure that each return 5164  
required to be filed under this section includes a box that the 5165  
taxpayer may check to authorize a paid tax preparer who prepared 5166  
the return to communicate with the department of taxation about 5167  
matters pertaining to the return. The return or instructions 5168  
accompanying the return shall indicate that by checking the box 5169  
the taxpayer authorizes the department of taxation to contact 5170  
the preparer concerning questions that arise during the 5171  
processing of the return and authorizes the preparer only to 5172  
provide the department with information that is missing from the 5173  
return, to contact the department for information about the 5174  
processing of the return or the status of the taxpayer's refund 5175  
or payments, and to respond to notices about mathematical 5176

errors, offsets, or return preparation that the taxpayer has 5177  
received from the department and has shown to the preparer. 5178

(K) The tax commissioner shall permit individual taxpayers 5179  
to instruct the department of taxation to cause any refund of 5180  
overpaid taxes to be deposited directly into a checking account, 5181  
savings account, or an individual retirement account or 5182  
individual retirement annuity, or preexisting college savings 5183  
plan or program account offered by the Ohio tuition trust 5184  
authority under Chapter 3334. of the Revised Code, as designated 5185  
by the taxpayer, when the taxpayer files the annual return 5186  
required by this section electronically. 5187

(L) The tax commissioner may adopt rules to administer 5188  
this section. 5189

**Sec. 5747.41.** (A) For the same purposes for which the tax 5190  
is levied under section 5747.02 of the Revised Code, there is 5191  
hereby levied a withholding tax on every qualifying pass-through 5192  
entity having at least one qualifying investor who is an 5193  
individual and on every qualifying trust having at least one 5194  
qualifying beneficiary who is an individual. The withholding tax 5195  
imposed by this section is imposed on the sum of the adjusted 5196  
qualifying amounts of a qualifying pass-through entity's 5197  
qualifying investors who are individuals and on the sum of the 5198  
adjusted qualifying amounts of a qualifying trust's qualifying 5199  
beneficiaries, at the rate of ~~five per cent of that~~ 5200  
~~sum~~ prescribed in division (B) of this section. 5201

The tax imposed by this section applies only if the 5202  
qualifying entity has nexus with this state under the 5203  
Constitution of the United States for any portion of the 5204  
qualifying entity's qualifying taxable year, and the sum of the 5205  
qualifying entity's adjusted qualifying amounts exceeds one 5206

thousand dollars for the qualifying entity's qualifying taxable year. 5207  
5208

~~The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.~~ 5209  
5210  
5211  
5212

(B) The rate of the tax levied by division (A) of this section shall be one of the following: 5213  
5214

(1) For qualifying taxable years beginning in or before 2015, five per cent. 5215  
5216

(2) For qualifying taxable years beginning in 2016, four and seven-tenths per cent. 5217  
5218

(3) For qualifying taxable years beginning in 2017, three and one-half per cent. 5219  
5220

(4) For qualifying taxable years beginning in 2018, one and six-tenths per cent. 5221  
5222

(5) For qualifying taxable years beginning in 2019 or thereafter, no tax. 5223  
5224

**Sec. 5749.01.** As used in this chapter: 5225

(A) "Ton" shall mean two thousand pounds as measured at the point and time of severance, after the removal of any impurities, under such rules and regulations as the tax commissioner may prescribe. 5226  
5227  
5228  
5229

(B) "Taxpayer" means any person required to pay the tax levied by Chapter 5749. of the Revised Code. 5230  
5231

(C) "Natural resource" means all forms of coal, salt, limestone, dolomite, sand, gravel, ~~natural gas, and oil,~~ 5232  
5233

<u>condensate, and natural gas liquids.</u>	5234
(D) "Owner," <del>has</del> <u>"exempt domestic well," "oil,"</u>	5235
<u>"condensate," and "horizontal well" have the same meaning-</u>	5236
<u>meanings as in section 1509.01 of the Revised Code.</u>	5237
(E) "Person" means any individual, firm, partnership,	5238
association, joint stock company, corporation, or estate, or	5239
combination thereof.	5240
(F) "Return" means any report or statement required to be	5241
filed pursuant to Chapter 5749. of the Revised Code used to	5242
determine the tax due.	5243
(G) "Severance" means the extraction or other removal of a	5244
natural resource from the soil or water of this state.	5245
(H) "Severed" means the point at which the natural	5246
resource has been separated from the soil or water in this	5247
state.	5248
(I) "Severer" means any person who actually removes the	5249
natural resources from the soil or water in this state.	5250
<u>(J) "Gas" means all hydrocarbons that are in a gaseous</u>	5251
<u>state at standard temperature and pressure.</u>	5252
<u>(K) "Natural gas liquids" means hydrocarbons separated</u>	5253
<u>from gas, including ethane, propane, butanes, pentanes, hexanes,</u>	5254
<u>and natural gasolines.</u>	5255
<u>(L) "Average quarterly spot price" means the following:</u>	5256
<u>(1) For oil, the average of each day's closing spot price</u>	5257
<u>reported for one barrel of crude oil for the calendar quarter</u>	5258
<u>that begins six months before the current calendar quarter, as</u>	5259
<u>reported by a publicly available source determined by the</u>	5260

commissioner; 5261

(2) For gas, the average of each day's closing spot price reported for one thousand cubic feet of natural gas for the calendar quarter that begins six months before the current calendar quarter, as reported by a publicly available source determined by the commissioner. 5262  
5263  
5264  
5265  
5266

(3) For condensate, the average of each day's closing spot price reported for one barrel of Marcellus-Utica condensate for the calendar quarter that begins six months before the current calendar quarter, as reported by a source determined by the commissioner; 5267  
5268  
5269  
5270  
5271

(4) For natural gas liquids, the average of each day's closing spot price reported for one million British thermal units of natural gas plant liquids composite for the calendar quarter that begins six months before the current calendar quarter, as reported by a publicly available source determined by the commissioner. 5272  
5273  
5274  
5275  
5276  
5277

(M) "Former section 1509.50 of the Revised Code" means section 1509.50 of the Revised Code as it existed before its repeal by ...B... of the 131st general assembly. 5278  
5279  
5280

**Sec. 5749.02.** (A) For the purpose of providing revenue to administer the state's coal mining and reclamation regulatory program and the state's oil and gas regulatory program, to meet the environmental and resource management needs of this state, to provide revenue to the general revenue fund and to fund the needs of local governments in this state, and to reclaim land affected by mining, an excise tax is hereby levied on the privilege of engaging in the severance of natural resources from the soil or water of this state. The tax shall be imposed upon 5281  
5282  
5283  
5284  
5285  
5286  
5287  
5288  
5289

the severer at the rates prescribed by <del>divisions (A) (1) to (9)</del>	5290
<del>of</del> this section:	5291
(1) Ten cents per ton of coal;	5292
(2) Four cents per ton of salt;	5293
(3) Two cents per ton of limestone or dolomite;	5294
(4) Two cents per ton of sand and gravel;	5295
(5) <del>Ten</del> <u>Twenty</u> cents per barrel of oil <u>severed from a well</u>	5296
<u>that is not a horizontal well;</u>	5297
(6) <del>Two and one half</del> <u>Three</u> cents per thousand cubic feet	5298
of <del>natural gas</del> <u>severed from a well that is not a horizontal</u>	5299
<u>well;</u>	5300
(7) One cent per ton of clay, sandstone or conglomerate,	5301
shale, gypsum, or quartzite;	5302
(8) Except as otherwise provided in this division or in	5303
rules adopted by the reclamation forfeiture fund advisory board	5304
under section 1513.182 of the Revised Code, an additional	5305
fourteen cents per ton of coal produced from an area under a	5306
coal mining and reclamation permit issued under Chapter 1513. of	5307
the Revised Code for which the performance security is provided	5308
under division (C) (2) of section 1513.08 of the Revised Code.	5309
Beginning July 1, 2007, if at the end of a fiscal biennium the	5310
balance of the reclamation forfeiture fund created in section	5311
1513.18 of the Revised Code is equal to or greater than ten	5312
million dollars, the rate levied shall be twelve cents per ton.	5313
Beginning July 1, 2007, if at the end of a fiscal biennium the	5314
balance of the fund is at least five million dollars, but less	5315
than ten million dollars, the rate levied shall be fourteen	5316
cents per ton. Beginning July 1, 2007, if at the end of a fiscal	5317

biennium the balance of the fund is less than five million 5318  
dollars, the rate levied shall be sixteen cents per ton. 5319  
Beginning July 1, 2009, not later than thirty days after the 5320  
close of a fiscal biennium, the chief of the division of mineral 5321  
resources management shall certify to the tax commissioner the 5322  
amount of the balance of the reclamation forfeiture fund as of 5323  
the close of the fiscal biennium. Any necessary adjustment of 5324  
the rate levied shall take effect on the first day of the 5325  
following January and shall remain in effect during the calendar 5326  
biennium that begins on that date. 5327

(9) An additional one and two-tenths cents per ton of coal 5328  
mined by surface mining methods; 5329

(10) For oil severed from a horizontal well, six and one- 5330  
half per cent of the product of the total volume of oil severed 5331  
during the calendar quarter multiplied by the average quarterly 5332  
spot price for oil applicable to that quarter; 5333

(11) For gas severed from a horizontal well, one of the 5334  
following: 5335

(a) For gas that enters the natural gas distribution 5336  
system without further processing, six and one-half per cent of 5337  
the product of the total volume of gas severed during the 5338  
calendar quarter multiplied by the average quarterly spot price 5339  
for gas applicable to that quarter; 5340

(b) For all other gas, four and one-half per cent of the 5341  
product of the total volume of gas after the gas is processed 5342  
during the calendar quarter, regardless of where the processing 5343  
facility is located, multiplied by the average quarterly spot 5344  
price for gas applicable to that quarter. 5345

(12) For condensate collected during the calendar quarter 5346

at a point other than the wellhead and separated from oil or gas 5347  
severed from a horizontal well, regardless of where title is 5348  
transferred, six and one-half per cent of the product of the 5349  
volume of condensate so collected multiplied by the average 5350  
quarterly spot price for condensate applicable to that quarter; 5351

(13) For natural gas liquids collected during the calendar 5352  
quarter at a point other than the wellhead and separated from 5353  
gas severed from a horizontal well, regardless of where title is 5354  
transferred, four and one-half per cent of the product of the 5355  
volume of natural gas liquids so collected multiplied by the 5356  
average quarterly spot price for natural gas liquids applicable 5357  
to that quarter. 5358

(B) After the director of budget and management transfers 5359  
money from the severance tax receipts fund as required in 5360  
division (H) of section 5749.06 of the Revised Code, money 5361  
remaining in the severance tax receipts fund, ~~except for money~~ 5362  
~~in the fund from the amounts due under section 1509.50 of the~~ 5363  
~~Revised Code,~~ shall be credited as follows: 5364

(1) Of the moneys in the fund from the tax levied in 5365  
division (A)(1) of this section, four and seventy-six-hundredths 5366  
per cent shall be credited to the geological mapping fund 5367  
created in section 1505.09 of the Revised Code, eighty and 5368  
ninety-five-hundredths per cent shall be credited to the coal 5369  
mining administration and reclamation reserve fund created in 5370  
section 1513.181 of the Revised Code, and fourteen and twenty- 5371  
nine-hundredths per cent shall be credited to the unreclaimed 5372  
lands fund created in section 1513.30 of the Revised Code. 5373

(2) The money in the fund from the tax levied in division 5374  
(A)(2) of this section shall be credited to the geological 5375  
mapping fund. 5376



(3) Of the moneys in the fund from the tax levied in 5377  
divisions (A) (3) and (4) of this section, seven and five-tenths 5378  
per cent shall be credited to the geological mapping fund, 5379  
forty-two and five-tenths per cent shall be credited to the 5380  
unreclaimed lands fund, and the remainder shall be credited to 5381  
the surface mining fund created in section 1514.06 of the 5382  
Revised Code. 5383

(4) Of the moneys in the fund from the tax levied in 5384  
divisions (A) (5) and (6) of this section, ninety per cent shall 5385  
be credited to the oil and gas well fund created in section 5386  
1509.02 of the Revised Code and ten per cent shall be credited 5387  
to the geological mapping fund. All of the moneys in the fund 5388  
from the tax levied in division (A) (7) of this section shall be 5389  
credited to the surface mining fund. 5390

(5) All of the moneys in the fund from the tax levied in 5391  
division (A) (8) of this section shall be credited to the 5392  
reclamation forfeiture fund. 5393

(6) All of the moneys in the fund from the tax levied in 5394  
division (A) (9) of this section shall be credited to the 5395  
unreclaimed lands fund. 5396

(7) (a) (i) On the first day of July of each year, or as 5397  
soon as practicable thereafter, the director of budget and 5398  
management shall certify to the commissioner a schedule listing 5399  
amounts from the severance tax receipts fund from the taxes 5400  
levied under divisions (A) (10) to (13) of this section that the 5401  
director will credit to the oil and gas well fund and geological 5402  
mapping fund in each month of the fiscal year. In determining 5403  
the amount to be transferred each month, the director shall 5404  
account for amounts appropriated for oil and gas regulation, 5405  
geological mapping, and plugging idle and orphaned wells 5406

compared to the available balance of the oil and gas well fund 5407  
and the geological mapping fund and anticipated revenue to those 5408  
funds in that fiscal year from sources other than the taxes 5409  
levied in divisions (A) (10) to (13) of this section. 5410

(ii) Not later than the twenty-fifth day of each month, 5411  
the director of budget and management shall transfer from the 5412  
severance tax receipts fund to the oil and gas well fund and the 5413  
geological mapping fund the amount the director certified to be 5414  
transferred to those funds for that month according to the 5415  
certified schedule in division (B) (7) (a) (i) of this section. 5416

(b) After making each of the June, September, December, 5417  
and March transfers from the severance tax receipts fund to the 5418  
oil and gas well fund and the geological mapping fund in 5419  
accordance with division (B) (7) (a) (ii) of this section, but 5420  
before the ensuing first day of July, October, January, and 5421  
April, respectively, the director of budget and management shall 5422  
credit, transfer, or distribute any money remaining in the 5423  
severance tax receipts fund from the taxes levied under 5424  
divisions (A) (10) to (13) of this section as follows: 5425

(i) Ten per cent to the county severance tax fund, which 5426  
is hereby created in the state treasury. On or before the last 5427  
day of March, June, September, and December of each year, the 5428  
commissioner shall distribute money in the fund to the severance 5429  
tax fund of each county in the most recent proportions certified 5430  
to the commissioner by the chief of the division of oil and gas 5431  
resources management under division (C) (1) of section 1509.11 of 5432  
the Revised Code. Interest earned on money in the county 5433  
severance tax fund shall be credited to the fund. 5434

(ii) Five per cent to the severance tax infrastructure 5435  
fund created by section 190.03 of the Revised Code. 5436

(iii) Five per cent to the severance tax endowment fund 5437  
created by section 190.04 of the Revised Code. 5438

(iv) Eighty per cent to the general revenue fund. 5439

(C) When, at the close of any fiscal year, the chief finds 5440  
that the balance of the reclamation forfeiture fund, plus 5441  
estimated transfers to it from the coal mining administration 5442  
and reclamation reserve fund under section 1513.181 of the 5443  
Revised Code, plus the estimated revenues from the tax levied by 5444  
division (A) (8) of this section for the remainder of the 5445  
calendar year that includes the close of the fiscal year, are 5446  
sufficient to complete the reclamation of all lands for which 5447  
the performance security has been provided under division (C) (2) 5448  
of section 1513.08 of the Revised Code, the purposes for which 5449  
the tax under division (A) (8) of this section is levied shall be 5450  
deemed accomplished at the end of that calendar year. The chief, 5451  
within thirty days after the close of the fiscal year, shall 5452  
certify those findings to the tax commissioner, and the tax 5453  
levied under division (A) (8) of this section shall cease to be 5454  
imposed for the subsequent calendar year after the last day of 5455  
that calendar year on coal produced under a coal mining and 5456  
reclamation permit issued under Chapter 1513. of the Revised 5457  
Code if the permittee has made tax payments under division (A) 5458  
(8) of this section during each of the preceding five full 5459  
calendar years. Not later than thirty days after the close of a 5460  
fiscal year, the chief shall certify to the tax commissioner the 5461  
identity of any permittees who accordingly no longer are 5462  
required to pay the tax levied under division (A) (8) of this 5463  
section for the subsequent calendar year. 5464

(D) On or before the last day of the first month of each 5465  
calendar quarter, the tax commissioner shall certify and post to 5466

the department of taxation's web site the average quarterly spot 5467  
price applicable to oil, gas, condensate, and natural gas 5468  
liquids for that quarter. 5469

**Sec. 5749.03.** The following shall be exempt from the tax 5470  
imposed by section 5749.02 of the Revised Code ~~and the amount~~ 5471  
~~due under section 1509.50 of the Revised Code:~~ 5472

(A) The severance of natural resources from land or water 5473  
in this state owned legally or beneficially by the severer, 5474  
which natural resources will be used on the land from which they 5475  
are taken by the severer as part of the improvement of or use in 5476  
the severer's homestead and which have a yearly cumulative 5477  
market value of not greater than one thousand dollars. When 5478  
severed natural resources so used exceed a cumulative market 5479  
value of one thousand dollars during any year, the further 5480  
severance of natural resources shall be subject to the tax 5481  
imposed by section 5749.02 of the Revised Code from an exempt 5482  
domestic well. 5483

(B) The severance of gas from a well that is not a 5484  
horizontal well if the total amount of gas severed from the well 5485  
does not exceed one of the following: 5486

(1) Nine hundred ten thousand cubic feet in a quarter for 5487  
a severer filing quarterly returns under section 5749.06 of the 5488  
Revised Code. 5489

(2) Three million six hundred forty thousand cubic feet in 5490  
a year for a severer required by the commissioner to file 5491  
returns annually under section 5749.06 of the Revised Code. 5492

**Sec. 5749.04.** No severer shall sever or sell a natural 5493  
resource in this state without first having obtained a ~~license~~ 5494  
~~or permit therefor~~ from or registering with the department of 5495

natural resources. 5496

~~Unless the severer has obtained a license or permit from another department of this state, the license or permit shall be issued by the tax commissioner upon receipt of a completed application on a form which he shall prescribe. The license or permit shall become effective on the date the application is accepted by the commissioner, who shall notify the applicant in writing of the acceptance, and shall remain in effect until such time as the commissioner revokes the license or permit. The commissioner may revoke the license or permit if he finds that the applicant has failed to fully and truthfully complete the application or has failed to pay the tax required by Chapter 5749. of the Revised Code.~~ 5497  
5498  
5499  
5500  
5501  
5502  
5503  
5504  
5505  
5506  
5507  
5508

~~The fee charged for the license or permit shall be fifty dollars. The remittance for such fee shall accompany the application and shall be made payable to the treasurer of state for deposit in the general revenue fund.~~ 5509  
5510  
5511  
5512

Before severing a natural resource, each severer shall file an application with the commissioner on a form prescribed by the commissioner to establish a severance tax account. The application may require the severer to disclose any information the commissioner considers necessary to establish that account. 5513  
5514  
5515  
5516  
5517

**Sec. 5749.06.** (A) (1) Each severer liable for the tax imposed by section 5749.02 of the Revised Code ~~and each severer or owner liable for the amounts due under section 1509.50 of the Revised Code~~ shall make and file returns with the tax commissioner in the prescribed form and as of the prescribed times, computing and reflecting therein the tax as required by this chapter ~~and amounts due under section 1509.50 of the Revised Code.~~ 5518  
5519  
5520  
5521  
5522  
5523  
5524  
5525

(2) The returns shall be filed for every ~~quarterly period,~~ 5526  
~~which periods shall end on the thirty-first day of March, the~~ 5527  
~~thirtieth day of June, the thirtieth day of September, and the~~ 5528  
~~thirty-first day of December of each year~~calendar quarter, as 5529  
required by this section, unless a different return period is 5530  
prescribed for a taxpayer by the commissioner. 5531

(B) (1) A separate return shall be filed for each calendar 5532  
~~quarterly period~~quarter, or other period, or any part thereof, 5533  
during which the severer holds a ~~license~~permit or has 5534  
registered as provided by section 5749.04 of the Revised Code, 5535  
or is required to hold the ~~license, or during which an owner is~~ 5536  
~~required to file a return~~permit or be registered. The return 5537  
shall be filed ~~within forty five days after the last on or~~ 5538  
~~before the fifteenth day of each such calendar month, or other~~ 5539  
~~period, or any part thereof, for which the return is required~~the 5540  
second month following the end of each return period. The tax 5541  
due is payable along with the return. All such returns shall 5542  
contain such information as the commissioner may require to 5543  
fairly administer the tax. 5544

(2) All returns shall be signed by the severer ~~or owner,~~ 5545  
~~as applicable~~, shall contain the full and complete information 5546  
requested, and shall be made under penalty of perjury. 5547

(C) If the commissioner believes that quarterly payments 5548  
of tax would result in a delay that might jeopardize the 5549  
collection of such tax payments, the commissioner may order that 5550  
such payments be made weekly, or more frequently if necessary, 5551  
such payments to be made not later than seven days following the 5552  
close of the period for which the jeopardy payment is required. 5553  
Such an order shall be delivered to the taxpayer personally or 5554  
by certified mail and shall remain in effect until the 5555

commissioner notifies the taxpayer to the contrary. 5556

(D) Upon good cause the commissioner may extend for thirty 5557  
days the period for filing any notice or return required to be 5558  
filed under this section, and may remit all or a part of 5559  
penalties that may become due under this chapter. 5560

(E) Any tax ~~and any amount due under section 1509.50 of~~ 5561  
~~the Revised Code~~ not paid by the day the tax ~~or amount~~ is due 5562  
shall bear interest computed at the rate per annum prescribed by 5563  
section 5703.47 of the Revised Code ~~on that amount due~~ from the 5564  
day that the ~~amount~~ tax was originally required to be paid to 5565  
the day of actual payment or to the day an assessment was issued 5566  
under section 5749.07 or 5749.10 of the Revised Code, whichever 5567  
occurs first. 5568

(F) A ~~severer or owner, as applicable,~~ that fails to file 5569  
a complete return or pay the full amount due under this chapter 5570  
within the time prescribed, including any extensions of time 5571  
granted by the commissioner, shall be subject to a penalty not 5572  
to exceed the greater of fifty dollars or ten per cent of the 5573  
amount due for the period. 5574

(G) (1) A ~~severer or owner, as applicable,~~ shall remit 5575  
payments electronically and, if required by the commissioner, 5576  
file each return electronically. The commissioner may require 5577  
that the ~~severer or owner~~ use the Ohio business gateway, as 5578  
defined in section 718.01 of the Revised Code, or another 5579  
electronic means to file returns and remit payments 5580  
electronically. 5581

(2) A ~~severer or owner~~ that is required to remit payments 5582  
electronically under this section may apply to the commissioner, 5583  
in the manner prescribed by the commissioner, to be excused from 5584

that requirement. The commissioner may excuse a severer ~~or owner~~ 5585  
from the requirements of division (G) of this section for good 5586  
cause. 5587

(3) If a severer ~~or owner~~ that is required to remit 5588  
payments or file returns electronically under this section fails 5589  
to do so, the commissioner may impose a penalty on the severer 5590  
~~or owner~~ not to exceed the following: 5591

(a) For the first or second payment or return the severer 5592  
~~or owner~~ fails to remit or file electronically, the greater of 5593  
five per cent of the amount of the payment that was required to 5594  
be remitted or twenty-five dollars; 5595

(b) For every payment or return after the second that the 5596  
severer ~~or owner~~ fails to remit or file electronically, the 5597  
greater of ten per cent of the amount of the payment that was 5598  
required to be remitted or fifty dollars. 5599

(H) (1) All amounts that the commissioner receives under 5600  
this section shall be deemed to be revenue from taxes imposed 5601  
under this chapter or from the amount due under former section 5602  
1509.50 of the Revised Code, as applicable, and shall be 5603  
deposited in the severance tax receipts fund, which is hereby 5604  
created in the state treasury. 5605

(2) The director of budget and management shall transfer 5606  
from the severance tax receipts fund, as necessary, to the tax 5607  
refund fund amounts equal to the refunds certified by the 5608  
commissioner under section 5749.08 of the Revised Code. Any 5609  
amount transferred under division (H) (2) of this section shall 5610  
be derived from receipts of the same tax or other amount from 5611  
which the refund arose. 5612

(3) After the director of budget and management makes any 5613



transfer required by division (H) (2) of this section, but not 5614  
later than the fifteenth day of ~~the each month following the end~~ 5615  
~~of each calendar quarter~~, the commissioner shall certify to the 5616  
director the total amount remaining in the severance tax 5617  
receipts fund organized according to the amount attributable to 5618  
each natural resource and according to the amount attributable 5619  
to a tax imposed by this chapter ~~and the amounts due under~~ 5620  
~~section 1509.50 of the Revised Code~~ and provide for payment to 5621  
the funds specified in division (B) of section 5749.02 of the 5622  
Revised Code. 5623

(I) Penalties imposed under this section are in addition 5624  
to any other penalty imposed under this chapter and shall be 5625  
considered as revenue arising from the tax levied under this 5626  
chapter or the amount due under former section 1509.50 of the 5627  
Revised Code, as applicable. The commissioner may collect any 5628  
penalty or interest imposed under this section in the same 5629  
manner as provided for the making of an assessment in section 5630  
5749.07 of the Revised Code. The commissioner may abate all or a 5631  
portion of such interest or penalties and may adopt rules 5632  
governing such abatements. 5633

(J) For the purposes of this section: 5634

(1) "Tax imposed by section 5749.02 of the Revised Code" 5635  
and "tax" includes amounts due under former section 1509.50 of 5636  
the Revised Code. 5637

(2) "Severer" includes an owner as defined in section 5638  
1509.01 of the Revised Code, with regard to amounts due from an 5639  
owner under former section 1509.50 of the Revised Code. 5640

**Sec. 5749.07.** (A) If any severer required by this chapter 5641  
to make and file returns and pay the tax ~~levied~~ imposed by 5642

section 5749.02 of the Revised Code, ~~or any severer or owner~~ 5643  
~~liable for the amounts due under section 1509.50 of the Revised~~ 5644  
~~Code,~~ fails to make such return or pay such tax or amounts, the 5645  
tax commissioner may make an assessment against the severer or 5646  
owner based upon any information in the commissioner's 5647  
possession. 5648

No assessment shall be made or issued against any severer 5649  
for any tax imposed by section 5749.02 of the Revised Code ~~or~~ 5650  
~~against any severer or owner for any amount due under section~~ 5651  
~~1509.50 of the Revised Code~~ more than four years after the 5652  
return was due or was filed, whichever is later. This section 5653  
does not bar an assessment against a severer ~~or owner~~ who fails 5654  
to file a return as required by this chapter, or who files a 5655  
fraudulent return. 5656

The commissioner shall give the party assessed written 5657  
notice of such assessment in the manner provided in section 5658  
5703.37 of the Revised Code. With the notice, the commissioner 5659  
shall provide instructions on how to petition for reassessment 5660  
and request a hearing on the petition. 5661

(B) Unless the party assessed files with the commissioner 5662  
within sixty days after service of the notice of assessment, 5663  
either personally or by certified mail, a written petition for 5664  
reassessment signed by the party assessed or that party's 5665  
authorized agent having knowledge of the facts, the assessment 5666  
becomes final and the amount of the assessment is due and 5667  
payable from the party assessed to the treasurer of state. The 5668  
petition shall indicate the objections of the party assessed, 5669  
but additional objections may be raised in writing if received 5670  
by the commissioner prior to the date shown on the final 5671  
determination. If the petition has been properly filed, the 5672

commissioner shall proceed under section 5703.60 of the Revised Code. 5673  
5674

(C) After an assessment becomes final, if any portion of 5675  
the assessment remains unpaid, including accrued interest, a 5676  
certified copy of the commissioner's entry making the assessment 5677  
final may be filed in the office of the clerk of the court of 5678  
common pleas in the county in which the party assessed resides 5679  
or in which the party's business is conducted. If the party 5680  
assessed maintains no place of business in this state and is not 5681  
a resident of this state, the certified copy of the entry may be 5682  
filed in the office of the clerk of the court of common pleas of 5683  
Franklin county. 5684

Immediately upon the filing of such entry, the clerk shall 5685  
enter a judgment for the state against the party assessed in the 5686  
amount shown on the entry. The judgment may be filed by the 5687  
clerk in a loose-leaf book entitled "special judgments for state 5688  
severance tax," and shall have the same effect as other 5689  
judgments. Execution shall issue upon the judgment upon the 5690  
request of the commissioner, and all laws applicable to sales on 5691  
execution shall apply to sales made under the judgment. 5692

If the assessment is not paid in its entirety within sixty 5693  
days after the day the assessment is issued, the portion of the 5694  
assessment consisting of tax due ~~or amounts due under section~~ 5695  
~~1509.50 of the Revised Code~~ shall bear interest at the rate per 5696  
annum prescribed by section 5703.47 of the Revised Code from the 5697  
day the commissioner issues the assessment until it is paid or 5698  
until it is certified to the attorney general for collection 5699  
under section 131.02 of the Revised Code, whichever comes first. 5700  
If the unpaid portion of the assessment is certified to the 5701  
attorney general for collection, the entire unpaid portion of 5702

the assessment shall bear interest at the rate per annum 5703  
prescribed by section 5703.47 of the Revised Code from the date 5704  
of certification until the date it is paid in its entirety. 5705  
Interest shall be paid in the same manner as the tax and may be 5706  
collected by the issuance of an assessment under this section. 5707

(D) All money collected by the commissioner under this 5708  
section shall be paid to the treasurer of state, and when paid 5709  
shall be considered as revenue arising from the tax imposed by 5710  
section 5749.02 of the Revised Code ~~and the amount due under~~ 5711  
~~section 1509.50 of the Revised Code, as applicable.~~ 5712

(E) For the purposes of this section: 5713

(1) "Tax imposed by section 5749.02 of the Revised Code" 5714  
and "tax" includes amounts due under former section 1509.50 of 5715  
the Revised Code. 5716

(2) "Severer" includes an owner as defined in section 5717  
1509.01 of the Revised Code, with regard to amounts due from an 5718  
owner under former section 1509.50 of the Revised Code. 5719

**Sec. 5749.08.** The tax commissioner shall refund ~~to~~ 5720  
~~taxpayers~~ the amount of taxes levied by section 5749.02 of the 5721  
Revised Code and amounts due under former section 1509.50 of the 5722  
Revised Code that were paid illegally or erroneously or paid on 5723  
an illegal or erroneous assessment. Applications for refund 5724  
shall be filed with the commissioner, on the form prescribed by 5725  
the commissioner, within four years from the date of the illegal 5726  
or erroneous payment. On the filing of the application, the 5727  
commissioner shall determine the amount of refund to which the 5728  
applicant is entitled, plus interest computed in accordance with 5729  
section 5703.47 of the Revised Code from the date of the payment 5730  
of an erroneous or illegal assessment until the date the refund 5731

is paid. If the amount is not less than that claimed, the 5732  
commissioner shall certify the amount to the director of budget 5733  
and management and treasurer of state for payment from the tax 5734  
refund fund created by section 5703.052 of the Revised Code. If 5735  
the amount is less than that claimed, the commissioner shall 5736  
proceed in accordance with section 5703.70 of the Revised Code. 5737

**Sec. 5749.10.** If the tax commissioner finds that a 5738  
~~taxpayer, person~~ liable for tax under this chapter or for any 5739  
amount due under former section 1509.50 of the Revised Code is 5740  
about to depart from the state, or remove the ~~taxpayer's-~~ 5741  
~~person's~~ property therefrom, or conceal the ~~taxpayer's person-~~ 5742  
~~themselves~~ or ~~their~~ property, or do any other act tending to 5743  
prejudice or to render wholly or partly ineffectual proceedings 5744  
to collect such tax or other amount due unless such proceedings 5745  
are brought without delay, or if the commissioner believes that 5746  
the collection of the tax or amount due from any ~~taxpayer person~~ 5747  
will be jeopardized by delay, the commissioner shall give notice 5748  
of such findings to ~~such taxpayer the person~~ together with the 5749  
demand for an immediate return and immediate payment of such tax 5750  
or other amount due, with penalty as provided in section 5749.15 5751  
of the Revised Code, whereupon such tax or other amount due 5752  
shall become immediately due and payable. In such cases the 5753  
commissioner may immediately file an entry with the clerk of the 5754  
court of common pleas in the same manner and with the same 5755  
effect as provided in section 5749.07 of the Revised Code, 5756  
provided that if ~~such taxpayer~~ the person, within five days from 5757  
notice of the assessment, furnishes evidence satisfactory to the 5758  
commissioner, under ~~the regulations prescribed~~ rules adopted by 5759  
the commissioner, that the ~~taxpayer person~~ is not in default in 5760  
making returns or paying any tax prescribed by this chapter or 5761  
amount due under former section 1509.50 of the Revised Code, or 5762

that the ~~taxpayer~~ person will duly return and pay, or post bond 5763  
satisfactory to the commissioner conditioned upon payment of the 5764  
tax or other amount finally determined to be due, then such tax 5765  
or other amount due shall not be payable prior to the time and 5766  
manner otherwise fixed for payment under section 5749.07 of the 5767  
Revised Code, and the person assessed shall be restored the 5768  
rights granted under such section. Upon satisfaction of the 5769  
assessment the commissioner shall order the bond cancelled, 5770  
securities released, and judgment vacated. 5771

Any assessment issued under this section shall bear 5772  
interest as prescribed under section 5749.07 of the Revised 5773  
Code. 5774

**Sec. 5749.12.** Any nonresident of this state who accepts 5775  
the privilege extended by the laws of this state to nonresidents 5776  
severing natural resources in this state, and any resident of 5777  
this state who subsequently becomes a nonresident or conceals 5778  
the resident's whereabouts, makes the secretary of state of Ohio 5779  
the person's agent for the service of process or notice in any 5780  
assessment, action, or proceedings instituted in this state 5781  
against such person under this chapter or for purposes of 5782  
amounts due under former section 1509.50 of the Revised Code. 5783

Such process or notice shall be served as provided under 5784  
section 5703.37 of the Revised Code. 5785

**Sec. 5749.13.** The tax commissioner may prescribe 5786  
requirements as to the keeping of records and other pertinent 5787  
documents and the filing of copies of federal income tax returns 5788  
and determinations. The commissioner may require any person, by 5789  
rule or by notice served on that person, to keep such records as 5790  
the commissioner considers necessary to show whether that person 5791  
is liable, and the extent of liability, for the tax imposed 5792

under this chapter and the amount due under former section 5793  
1509.50 of the Revised Code. Such records and other documents 5794  
shall be open during business hours to the inspection of the 5795  
commissioner, and shall be preserved for a period of four years 5796  
after the date the return was required to be filed or actually 5797  
was filed, whichever is later, unless the commissioner, in 5798  
writing, consents to their destruction within that period, or by 5799  
order requires that they be kept longer. 5800

**Sec. 5749.14.** The tax commissioner shall enforce and 5801  
administer this chapter ~~and applicable provisions of section~~ 5802  
~~1509.50 of the Revised Code.~~ In addition to any other powers 5803  
conferred upon the commissioner by law, the commissioner may: 5804

(A) Prescribe all forms required to be filed pursuant to 5805  
this chapter; 5806

(B) ~~Promulgate~~ Adopt such rules as the commissioner finds 5807  
necessary to carry out this chapter ~~and applicable provisions of~~ 5808  
~~section 1509.50 of the Revised Code;~~ 5809

(C) Appoint and employ such personnel as may be necessary 5810  
to carry out the duties imposed upon the commissioner by this 5811  
chapter. 5812

**Sec. 5749.15.** Any person who fails to file a return or pay 5813  
the tax as required under this chapter or other amount due under 5814  
former section 1509.50 of the Revised Code who is assessed such 5815  
taxes or other amount due pursuant to section 5749.07 or 5749.10 5816  
of the Revised Code may be liable for a penalty of up to twenty- 5817  
five per cent of the amount assessed. The tax commissioner may 5818  
adopt rules relating to the imposition and remission of 5819  
penalties imposed under this section. 5820

**Sec. 5749.17.** ~~Except for purposes of enforcing Chapter~~ 5821

~~1509. of the Revised Code, any~~ Any information provided to the 5822  
department of natural resources by the department of taxation in 5823  
accordance with division (C) (12) of section 5703.21 of the 5824  
Revised Code shall not be disclosed publicly by the department 5825  
of natural resources. However the department of natural 5826  
resources may provide such information to the attorney general 5827  
for purposes of enforcement of Chapter 1509. of the Revised 5828  
Code. 5829

**Section 2.** That existing sections 145.01, 145.191, 145.38, 5830  
145.384, 145.471, 145.472, 145.58, 742.26, 1509.01, 1509.02, 5831  
1509.11, 1509.34, 2305.234, 2305.2341, 3307.01, 3307.35, 5832  
3307.352, 3309.341, 3309.344, 3501.13, 5703.052, 5703.19, 5833  
5739.01, 5747.02, 5747.05, 5747.08, 5747.41, 5749.01, 5749.02, 5834  
5749.03, 5749.04, 5749.06, 5749.07, 5749.08, 5749.10, 5749.12, 5835  
5749.13, 5749.14, 5749.15, and 5749.17 and sections 145.381, 5836  
145.382, 1509.50, 3307.353, and 3309.345 of the Revised Code are 5837  
hereby repealed. 5838

**Section 3.** The amendment, enactment, or repeal by this act 5839  
of sections 190.01, 190.02, 190.03, 190.04, 321.50, 1509.01, 5840  
1509.02, 1509.11, 1509.34, 1509.50, 5703.052, 5703.19, 5749.01, 5841  
5749.02, 5749.03, 5749.04, 5749.06, 5749.07, 5749.08, 5749.10, 5842  
5749.12, 5749.13, 5749.14, 5749.15, and 5749.17 shall take 5843  
effect on July 1, 2015. 5844

**Section 4.** Notwithstanding division (B) (7) (a) (ii) of 5845  
section 5749.02 of the Revised Code, the Director of Budget and 5846  
Management shall make the first transfer required under that 5847  
division on or before December 15, 2015, and that transfer shall 5848  
be for the amount listed on the schedule certified under 5849  
division (B) (7) (a) (i) of that section for November 2015. 5850

**Section 5.** (A) As used in this section: 5851



(1) "Candidate" has the same meaning as in division (C) (3) 5852  
of section 3517.01 of the Revised Code, but is limited to 5853  
candidates for the public offices specified in this section. 5854

(2) "Contribution" has the same meaning as in division (C) 5855  
(5) of section 3517.01 of the Revised Code, but is limited to 5856  
contributions of money only. 5857

(B) Notwithstanding any law to the contrary, a 5858  
nonrefundable credit is allowed against the tax imposed by 5859  
section 5747.02 of the Revised Code for contributions of money 5860  
made to the campaign committee of candidates for any of the 5861  
following public offices: Governor, Lieutenant Governor, 5862  
Secretary of State, Auditor of State, Treasurer of State, 5863  
Attorney General, member of the State Board of Education, Chief 5864  
Justice of the Supreme Court, Justice of the Supreme Court, or 5865  
member of the General Assembly. 5866

(C) The amount of the credit for a taxable year equals the 5867  
lesser of the combined total contributions made during the 5868  
taxable year by each taxpayer filing a return required to be 5869  
filed under section 5747.08 of the Revised Code or the amount of 5870  
fifty dollars, in the case of an individual return, or one 5871  
hundred dollars, in the case of a joint return. 5872

(D) The taxpayer shall claim the credit in the order 5873  
prescribed in division (A) (10) of section 5747.98 of the Revised 5874  
Code as that section existed before its amendment by H.B. 64 of 5875  
the 131st General Assembly. 5876

(E) The credit for a taxable year shall not exceed the tax 5877  
otherwise due for that year after allowing for any other credits 5878  
that precede the credit under this section in that order. 5879

**Section 6.** (A) Notwithstanding the sections of Sub. H.B. 5880

64 of the 131st General Assembly numbered in the 200s, 300s, or 5881  
 400s, aggregate General Revenue Fund appropriations for each 5882  
 agency in fiscal year 2016 and fiscal year 2017 shall be reduced 5883  
 by the amount specified in the table below. Not later than July 5884  
 15 of each fiscal year and subject to division (B) of this 5885  
 section, the Director of Budget and Management shall determine 5886  
 the amount of the reductions to individual General Revenue Fund 5887  
 appropriation items in a manner that best preserves the critical 5888  
 services of the state, provided that the aggregate amount of the 5889  
 reductions for each agency is equal to the amount specified in 5890  
 the table below. 5891

Agency	FY 2016	FY 2017	
Adjutant General	\$618,447	\$837,390	5892
Department of Administrative Services	\$1,741,676	\$2,367,601	5893
Department of Aging	\$720,635	\$975,755	5894
Department of Agriculture	\$982,464	\$1,728,634	5895
Ohio Arts Council	\$827,655	\$1,163,041	5896
Attorney General	\$2,898,448	\$3,924,556	5897
Auditor of State	\$1,782,693	\$2,413,803	5898
Office of Budget and Management	\$300,270	\$406,571	5899
Capitol Square Review and Advisory Board	\$224,006	\$303,309	5900
Ohio Civil Rights Commission	\$338,425	\$458,234	5901
Controlling Board	\$29,733	\$146,206	5902

Court of Claims	\$160,433	\$214,979	5906
Development Services Agency	\$2,511,441	\$3,167,460	5907
Department of Developmental Disabilities	\$4,788,655	\$6,483,935	5908 5909
Department of Education	\$476,896,966	\$682,284,702	5910
Ohio Elections Commission	\$20,852	\$28,234	5911
State Employment Relations Board	\$235,454	\$318,810	5912 5913
Environmental Protection Agency	\$683,749	\$925,809	5914
Environmental Review Appeals Commission	\$34,148	\$46,238	5915 5916
Broadcast Educational Media Commission	\$646,898	\$875,913	5917 5918
Ohio Ethics Commission	\$86,481	\$117,097	5919
Ohio Expositions Commission	\$31,298	\$42,379	5920
Ohio Facilities Construction Commission	\$578,393	\$766,204	5921 5922
Office of the Governor	\$197,642	\$267,502	5923
Department of Health Commission on Hispanic/Latino Affairs	\$5,365,048	\$7,205,053	5924 5925 5926
Ohio History Connection	\$839,450	\$1,111,206	5927

Ohio House of Representatives	\$1,456,807	\$1,972,546	5928
Office of the Inspector General	\$83,113	\$112,537	5929
Department of Job and Family Services	\$44,437,834	\$60,222,638	5930 5931
Joint Committee on Agency Rule Review	\$30,869	\$43,417	5932 5933
Joint Education Oversight Committee	\$78,246	\$105,946	5934 5935
Joint Medicaid Oversight Committee	\$20,156	\$41,558	5936 5937
Judicial Conference of Ohio The Judiciary/Supreme Court	\$62,534	\$87,978	5938 5939
Joint Legislative Ethics Committee	\$34,428	\$46,616	5940 5941
Legislative Service Commission	\$1,544,288	\$2,090,997	5942
State Library Board	\$369,317	\$500,062	5943
Department of Mental Health and Addiction Services	\$23,003,080	\$31,734,851	5944 5945
Ohio Military Facilities Commission	\$156,492	\$211,893	5946 5947
Commission on Minority Health	\$98,063	\$132,780	5948
Department of Natural Resources	\$3,321,197	\$4,465,183	5949

Opportunities for Ohioans with	\$1,017,251	\$1,377,378	5950
Disabilities Agency			5951
Ohio Public Defender Commission	\$1,671,658	\$2,265,453	5952
Department of Public Safety	\$1,132,955	\$1,534,044	5953
Department of Higher Education	\$138,006,773	\$191,324,991	5954
Department of Rehabilitation and	\$94,248,665	\$132,049,028	5955
Correction			5956
Ohio State School for the Blind	\$500,773	\$678,057	5957
Ohio School for the Deaf	\$601,205	\$850,018	5958
Secretary of State	\$148,869	\$201,571	5959
The Ohio Senate	\$783,593	\$1,061,001	5960
Board of Tax Appeals	\$106,414	\$144,087	5961
Department of Taxation	\$4,323,296	\$5,853,830	5962
Department of Transportation	\$957,728	\$1,296,783	5963
Treasurer of State	\$1,823,224	\$2,468,682	5964
Veterans' Organizations	\$118,182	\$160,020	5965
Department of Veterans Services	\$1,857,041	\$2,514,471	5966
Department of Youth Services	\$11,993,244	\$16,239,094	5967
(B) The following General Revenue Fund appropriation items			5968
used for debt service, property tax reimbursement, or Medicaid			5969
payments are exempt from the reductions as required by division			5970
(A) of this section.			5971
Agency	ALI	ALI Title	5972

Department of Administrative Services	100413	Enterprise Data Center Solutions Lease Rental Payments	5973 5974 5975 5976
Department of Administrative Services	100414	MARCS Lease Rental Payments	5977 5978
Department of Administrative Services	100415	OAKS Lease Rental Payments	5979 5980
Department of Administrative Services	100416	STARS Lease Rental Payments	5981 5982
Department of Administrative Services	100447	Administrative Buildings Lease Rental Bond Payments	5983 5984 5985
Department of Aging	656423	Long-Term Care Program Support - State	5986 5987 5988
Development Services Agency	195901	Coal Research & Development General Obligation Bond Debt Service	5989 5990 5991 5992
Development Services Agency	195905	Third Frontier Research &	5993 5994

		Development General	5995
		Obligation Bond Debt	5996
		Service	5997
Development Services Agency	195912	Job Ready Site	5998
		Development General	5999
		Obligation Bond Debt	6000
		Service	6001
Department of Developmental	320415	Developmental	6002
Disabilities		Disabilities	6003
		Facilities Lease	6004
		Rental Bond Payments	6005
Department of Developmental	653321	Medicaid Program	6006
Disabilities		Support - State	6007
Department of Developmental	653407	Medicaid Services	6008
Disabilities			6009
Ohio Facilities Construction	230401	Cultural Facilities	6010
Commission		Lease Rental Bond	6011
		Payments	6012
Ohio Facilities Construction	230908	Common Schools	6013
Commission		General Obligation	6014
		Bond Debt Service	6015
Department of Health	654453	Medicaid - Health	6016

		Care Quality	6017
		Assurance	6018
Department of Job and Family Services	655522	Medicaid Program	6019
		Support - Local	6020
Department of Job and Family Services	655523	Medicaid Program	6021
		Support - Local	6022
		Transportation	6023
Department of Medicaid	651425	Medicaid Program	6024
		Support - State	6025
Department of Medicaid	651525	Medicaid/Health Care Services	6026 6027
Department of Medicaid	651526	Medicare Part D	6028
Department of Medicaid	651527	Medicaid for Inmates Pilot Program	6029 6030
Department of Mental Health and Addiction Services	336415	Mental Health Facilities Lease-	6031 6032
		Rental Bond Payments	6033
Department of Mental Health and Addiction Services	652321	Medicaid Support	6034 6035
Department of Natural Resources	725413	Parks and Recreational Facilities Lease	6036 6037 6038



		Rental Bond Payments	6039
Department of Natural Resources	725903	Natural Resources	6040
		General Obligation	6041
		Bond Debt Service	6042
Public Works Commission	150904	Conservation General	6043
		Obligation Bond Debt	6044
		Service	6045
Public Works Commission	150907	Infrastructure	6046
		Improvement General	6047
		Obligation Bond Debt	6048
		Service	6049
Department of Higher Education	235909	Higher Education	6050
		General Obligation	6051
		Bond Debt Service	6052
Department of Rehabilitation and Correction	501406	Adult Correctional	6053
		Facilities Lease	6054
		Rental Bond Payments	6055
State Revenue Distributions	110908	Property Tax	6056
		Reimbursement -	6057
		Local Government	6058
State Revenue Distributions	200903	Property Tax	6059
		Reimbursement -	6060

			Education	6061
Treasurer of State	090406		Treasury Management	6062
			System Lease Rental	6063
			Payments	6064
Department of Veterans Services	900901		Veterans	6065
			Compensation General	6066
			Obligation Bond Debt	6067
			Service	6068
Department of Youth Services	470412		Juvenile	6069
			Correctional	6070
			Facilities Lease	6071
			Rental Bond Payments	6072
			(C) Notwithstanding the sections of Sub. H.B. 64 of the	6073
			131st General Assembly numbered in the 200s, 300s, or 400s and	6074
			division (B) of this section, the following appropriation items	6075
			for the Department of Medicaid in fiscal year 2016 and fiscal	6076
			year 2017 shall be reduced by the amount specified in the table	6077
			below to eliminate Medicaid funding for the group described in	6078
			section 192(a)(10)(i)(VIII) of the "Social Security Act," 42	6079
			U.S.C. 1396a(a)(10)(A)(i)(VIII).	6080
ALI	ALI Title	FY 2016	FY 2017	6081
651525	Medicaid/Health Care			6082
	Services			6083
	State	\$0	\$119,890,105	6084

	Federal	\$4,196,201,284	\$4,680,792,151	6085
	Medicaid/Health Care	\$4,196,201,284	\$4,800,682,256	6086
	Services Total			6087
651639	Medicaid Services -	\$0	\$6,009,895	6088
	Recoveries			6089
651623	Medicaid Services -	\$223,482,670	\$240,395,803	6090
	Federal			6091