

**As Reported by the House Ways and Means Committee**

**134th General Assembly**

**Regular Session**

**2021-2022**

**Sub. S. B. No. 33**

**Senators Hottinger, Brenner**

**Cosponsors: Senators Wilson, Lang, Roegner, Yuko, Fedor, Dolan, Antonio, Cirino, Craig, Gavarone, Hackett, Hicks-Hudson, Huffman, S., Johnson, Maharath, Manning, Martin, Peterson, Reineke, Romanchuk, Rulli, Sykes, Thomas  
Representatives Merrin, Young, T.**

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**A BILL**

To amend sections 3735.65, 3735.66, 3735.671, 1  
3735.672, 3735.673, 3735.68, 3735.69, 5709.631, 2  
5709.82, 5709.85, 5747.01, 5747.10, and 5747.70 3  
of the Revised Code to modify the law governing 4  
community reinvestment areas and to expand the 5  
income tax deduction allowed for contributions 6  
to Ohio's 529 education savings plans to include 7  
contributions to 529 plans established by other 8  
states. 9

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

**Section 1.** That sections 3735.65, 3735.66, 3735.671, 10  
3735.672, 3735.673, 3735.68, 3735.69, 5709.631, 5709.82, 11  
5709.85, 5747.01, 5747.10, and 5747.70 of the Revised Code be 12  
amended to read as follows: 13

**Sec. 3735.65.** As used in sections 3735.65 to 3735.70 of 14  
the Revised Code: 15

(A) "Housing officer" means an officer or agency of a 16

~~municipal corporation or county political subdivision~~ designated 17  
by the legislative authority of the ~~municipal corporation or~~ 18  
~~county political subdivision~~, pursuant to section 3735.66 of the 19  
Revised Code, for each community reinvestment area to administer 20  
sections 3735.65 to 3735.69 of the Revised Code. One officer or 21  
agency may be designated as the housing officer for more than 22  
one community reinvestment area. 23

(B) "Community reinvestment area" means an area ~~within a~~ 24  
~~municipal corporation or unincorporated area of a county for~~ 25  
which the legislative authority of ~~the municipal corporation or,~~ 26  
~~for the unincorporated area, of the county, a political~~ 27  
subdivision has adopted a resolution under section 3735.66 of 28  
the Revised Code describing the boundaries of the area and 29  
containing a statement of finding that the area included in the 30  
description is one in which housing facilities or structures of 31  
historical significance are located and new housing construction 32  
and repair of existing facilities or structures are discouraged. 33

(C) "Remodeling" means any change made in a structure for 34  
the purpose of making it structurally more sound, more 35  
habitable, or for the purpose of improving its appearance. 36

(D) "Structure of historical or architectural 37  
significance" means those designated as such by resolution of 38  
the legislative authority of a ~~municipal corporation, for those~~ 39  
~~located in a municipal corporation, or the county, for those~~ 40  
~~located in the unincorporated area of the county political~~ 41  
subdivision based on age, rarity, architectural quality, or 42  
because of a previous designation by a historical society, 43  
association, or agency. 44

(E) "Megaproject," "megaproject operator," and 45  
"megaproject supplier" have the same meanings as in section 46

122.17 of the Revised Code. 47

(F) "Political subdivision" means a county, a municipal corporation, or a limited home rule township. 48  
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(G) "Legislative authority" means a board of county commissioners of a county, a legislative authority of a municipal corporation, or a board of trustees of a limited home rule township. 50  
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(H) "Limited home rule township" means a township that has adopted a limited home rule government under Chapter 504. of the Revised Code. 54  
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**Sec. 3735.66.** The legislative ~~authorities~~ authority of ~~municipal corporations and counties~~ a political subdivision may survey the housing within ~~their jurisdictions~~ the municipal corporation in the case of a municipal corporation, the unincorporated area of the township in the case of a limited home rule township, and, after the unincorporated area of the county in the case of a county. After the survey, the legislative authority may adopt resolutions a resolution describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of 57  
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section 3735.67 of the Revised Code are eligible for exemption 77  
from taxation regardless of classification. Whether or not the 78  
resolution includes such a stipulation, the classification of 79  
the structures or remodeling eligible for exemption in the area 80  
shall at all times be consistent with zoning restrictions 81  
applicable to the area. For the purposes of sections 3735.65 to 82  
3735.70 of the Revised Code, whether a structure or remodeling 83  
composed of multiple units is classified as commercial or 84  
residential shall be determined by resolution or ordinance of 85  
the legislative authority or, in the absence of such a 86  
determination, by the classification of the use of the structure 87  
or remodeling under the applicable zoning regulations. 88

If construction or remodeling classified as residential is 89  
eligible for exemption from taxation, the resolution shall 90  
specify a percentage, not to exceed one hundred per cent, of the 91  
assessed valuation of such property to be exempted. The 92  
percentage specified shall apply to all residential construction 93  
or remodeling for which exemption is granted. 94

Territory of a community reinvestment area designated by a 95  
municipal corporation shall include only territory of the 96  
municipal corporation. Territory of an area designated by a 97  
limited home rule township shall include only unincorporated 98  
territory of the township that is not already included in an 99  
area designated by a county. Territory of an area designated by 100  
a county shall include only unincorporated territory of the 101  
county that is not already included in an area designated by a 102  
limited home rule township. 103

Upon the adoption of the resolution, the legislative 104  
authority shall send, by certified mail, one copy of the 105  
resolution and a map of the community reinvestment area in 106

sufficient detail to denote the specific boundaries of the area, 107  
to the director of development. 108

The resolution adopted pursuant to this section shall be 109  
published in a newspaper of general circulation in the ~~municipal~~ 110  
~~corporation, if the resolution is adopted by the legislative~~ 111  
~~authority of a municipal corporation, or in a newspaper of~~ 112  
~~general circulation in the county, if the resolution is adopted~~ 113  
~~by the legislative authority of the county, political~~ 114  
subdivision that adopted the resolution once a week for two 115  
consecutive weeks or as provided in section 7.16 of the Revised 116  
Code, immediately following its adoption. 117

Each legislative authority adopting a resolution pursuant 118  
to this section shall designate a housing officer. ~~In addition,~~ 119  
~~each such legislative authority, not later than sixty days after~~ 120  
~~the adoption of the resolution, shall petition the director of~~ 121  
~~development services for the director to confirm the findings~~ 122  
~~described in the resolution. The petition shall be accompanied~~ 123  
~~by a copy of the resolution and by a map of the community~~ 124  
~~reinvestment area in sufficient detail to denote the specific~~ 125  
~~boundaries of the area and to indicate zoning restrictions~~ 126  
~~applicable to the area. The director shall determine whether the~~ 127  
~~findings contained in the resolution are valid, and whether the~~ 128  
~~classification of structures or remodeling eligible for~~ 129  
~~exemption under the resolution is consistent with zoning~~ 130  
~~restrictions applicable to the area as indicated on the map.~~ 131  
~~Within thirty days of receiving the petition, the director shall~~ 132  
~~forward the director's determination to the legislative~~ 133  
authority. The legislative authority or housing officer shall 134  
not grant any exemption from taxation under section 3735.67 of 135  
the Revised Code until the director ~~forwards the director's~~ 136  
~~determination to the legislative authority. The director shall~~ 137

~~assign~~ assigns to each community reinvestment area a unique 138  
designation by which the area shall be identified for purposes 139  
of sections 3735.65 to 3735.70 of the Revised Code. 140

~~If zoning restrictions in any part of a community~~ 141  
~~reinvestment area are changed at any time after the legislative~~ 142  
~~authority petitions the director under this section, the~~ 143  
~~legislative authority shall notify the director and shall submit~~ 144  
~~a map of the area indicating the new zoning restrictions in the~~ 145  
~~area.~~ 146

**Sec. 3735.671.** (A) If construction or remodeling of 147  
commercial or industrial property is to be exempted from 148  
taxation pursuant to section 3735.67 of the Revised Code, the 149  
legislative authority and the owner of the property, prior to 150  
the commencement of construction or remodeling, shall enter into 151  
a written agreement, binding on both parties for a period of 152  
time that does not end prior to the end of the period of the 153  
exemption, that includes all of the information and statements 154  
~~prescribed by~~ described in divisions (B)(1) to (8) of this 155  
section. Agreements may include terms not ~~prescribed by this~~ 156  
~~section~~ described in those divisions or otherwise prescribed by 157  
the model agreement adopted by the director of development under 158  
division (B) of this section, but such terms shall in no way 159  
derogate from the information and statements ~~prescribed by~~ 160  
described in divisions (B)(1) to (8) of this section. 161

(1) Except as otherwise provided in division (A)(2) or (3) 162  
of this section, an agreement entered into under this section 163  
shall not be approved by the legislative authority unless the 164  
board of education of the city, local, or exempted village 165  
school district within the territory of which the property is or 166  
will be located approves the agreement. For the purpose of 167

obtaining such approval, the legislative authority shall certify 168  
a copy of the agreement to the board of education not later than 169  
forty-five days prior to approving the agreement, excluding 170  
Saturday, Sunday, and a legal holiday as defined in section 1.14 171  
of the Revised Code. The board of education, by resolution 172  
adopted by a majority of the board, shall approve or disapprove 173  
the agreement and certify a copy of the resolution to the 174  
legislative authority not later than fourteen days prior to the 175  
date stipulated by the legislative authority as the date upon 176  
which approval of the agreement is to be formally considered by 177  
the legislative authority. The board of education may include in 178  
the resolution conditions under which the board would approve 179  
the agreement. The legislative authority may approve an 180  
agreement at any time after the board of education certifies its 181  
resolution approving the agreement to the legislative authority, 182  
or, if the board approves the agreement conditionally, at any 183  
time after the conditions are agreed to by the board and the 184  
legislative authority. 185

(2) Approval of an agreement by the board of education is 186  
not required under division (A)(1) of this section if, for each 187  
tax year the real property is exempted from taxation, the sum of 188  
the following quantities, as estimated at or prior to the time 189  
the agreement is formally approved by the legislative authority, 190  
equals or exceeds ~~fifty-twenty-five~~ per cent of the amount of 191  
taxes, as estimated at or prior to that time, that would have 192  
been charged and payable that year upon the real property had 193  
that property not been exempted from taxation: 194

(a) The amount of taxes charged and payable on any portion 195  
of the assessed valuation of the new structure or of the 196  
increased assessed valuation of an existing structure after 197  
remodeling began that will not be exempted from taxation under 198

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| the agreement;  | 199 |
| (b) The amount of taxes charged and payable on tangible                             | 200 |
| personal property located on the premises of the new structure                      | 201 |
| or of the structure to be remodeled under the agreement, whether                    | 202 |
| payable by the owner of the structure or by a related member, as                    | 203 |
| defined in section 5733.042 of the Revised Code without regard                      | 204 |
| to division (B) of that section.  | 205 |
| (c) The amount of any cash payment by the owner of the new                          | 206 |
| structure or structure to be remodeled to the school district,                      | 207 |
| the dollar value, as mutually agreed to by the owner and the                        | 208 |
| board of education, of any property or services provided by the                     | 209 |
| owner of the property to the school district, whether by gift,                      | 210 |
| loan, or otherwise, and any payment by the legislative authority                    | 211 |
| to the school district pursuant to section 5709.82 of the                           | 212 |
| Revised Code.   | 213 |
| The estimates of quantities used for purposes of division                           | 214 |
| (A) (2) of this section shall be estimated by the legislative                       | 215 |
| authority. The legislative authority shall certify to the board                     | 216 |
| of education that the estimates have been made in good faith.                       | 217 |
| Departures of the actual quantities from the estimates                              | 218 |
| subsequent to approval of the agreement by the board of                             | 219 |
| education do not invalidate the agreement.  | 220 |
| (3) If a board of education has adopted a resolution                                | 221 |
| waiving its right to approve agreements and the resolution                          | 222 |
| remains in effect, approval of an agreement by the board is not                     | 223 |
| required under <del>this division</del> <u>(A) (1) of this section</u> . If a board | 224 |
| of education has adopted a resolution allowing a legislative                        | 225 |
| authority to deliver the notice required under this division                        | 226 |
| fewer than forty-five business days prior to the legislative                        | 227 |
| authority's execution of the agreement, the legislative                             | 228 |



authority shall deliver the notice to the board not later than 229  
the number of days prior to such execution as prescribed by the 230  
board in its resolution. If a board of education adopts a 231  
resolution waiving its right to approve agreements or shortening 232  
the notification period, the board shall certify a copy of the 233  
resolution to the legislative authority. If the board of 234  
education rescinds such a resolution, it shall certify notice of 235  
the rescission to the legislative authority. 236

(4) If the owner of the property or the legislative 237  
authority agree to make any payment to the school district as 238  
described in division (A) (2) (c) of this section, the owner or 239  
legislative authority shall agree to make payments to the joint 240  
vocational school district within which the property is located 241  
at the same rate or amount and under the same terms received by 242  
the city, local, or exempted village school district. 243

~~(B) Each agreement shall include the following 244  
information: 245~~

~~(1) The names of all parties to the agreement; 246~~

~~(2) A description of the remodeling or construction, 247  
whether or not to be exempted from taxation, including existing 248  
or new structure size and cost thereof; the value of machinery, 249  
equipment, furniture, and fixtures, including an itemization of 250  
the value of machinery, equipment, furniture, and fixtures used 251  
at another location in this state prior to the agreement and 252  
relocated or to be relocated from that location to the property, 253  
and the value of machinery, equipment, furniture, and fixtures 254  
at the facility prior to the execution of the agreement; the 255  
value of inventory at the property, including an itemization of 256  
the value of inventory held at another location in this state 257  
prior to the agreement and relocated or to be relocated from 258~~

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| <del>that location to the property, and the value of inventory held</del>   | 259 |
| <del>at the property prior to the execution of the agreement;</del>         | 260 |
| <del>(3) The scheduled starting and completion dates of</del>               | 261 |
| <del>remodeling or construction of real property or of investments</del>    | 262 |
| <del>made in machinery, equipment, furniture, fixtures, and</del>           | 263 |
| <del>inventory;</del>   | 264 |
| <del>(4) Estimates of the number of employee positions to be</del>          | 265 |
| <del>created each year of the agreement and of the number of employee</del> | 266 |
| <del>positions retained by the owner due to the remodeling or</del>         | 267 |
| <del>construction, itemized as to the number of full-time, part-time,</del> | 268 |
| <del>permanent, and temporary positions;</del>                              | 269 |
| <del>(5) Estimates of the dollar amount of payroll attributable</del>       | 270 |
| <del>to the positions set forth in division (B)(4) of this section,</del>   | 271 |
| <del>similarly itemized;</del>  | 272 |
| <del>(6) The number of employee positions, if any, at the</del>             | 273 |
| <del>property and at any other location in this state at the time the</del> | 274 |
| <del>agreement is executed, itemized as to the number of full-time,</del>   | 275 |
| <del>part-time, permanent, and temporary positions.</del>                   | 276 |
| <del>(C) Each agreement shall set forth the following</del>                 | 277 |
| <del>information and incorporate the following statements:</del>            | 278 |
| <del>(1) A description of real property to be exempted from</del>           | 279 |
| <del>taxation under the agreement, the percentage of the assessed</del>     | 280 |
| <del>valuation of the real property exempted from taxation, and the</del>   | 281 |
| <del>period for which the exemption is granted, accompanied by the</del>    | 282 |
| <del>statement: "The exemption commences the first year for which the</del> | 283 |
| <del>real property would first be taxable were that property not</del>      | 284 |
| <del>exempted from taxation. No exemption shall commence after</del>        | 285 |
| <del>_____ (insert date) nor extend beyond _____ (insert</del>              | 286 |
| <del>date)."</del>  | 287 |

~~(2) "\_\_\_\_\_ (insert name of owner) shall pay such  
real property taxes as are not exempted under this agreement and  
are charged against such property and shall file all tax reports  
and returns as required by law. If \_\_\_\_\_ (insert name of  
owner) fails to pay such taxes or file such returns and reports,  
exemptions from taxation granted under this agreement are  
rescinded beginning with the year for which such taxes are  
charged or such reports or returns are required to be filed and  
thereafter."~~ 288  
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~~(3) "\_\_\_\_\_ (insert name of owner) hereby certifies  
that at the time this agreement is executed, \_\_\_\_\_ (insert  
name of owner) does not owe any delinquent real or tangible  
personal property taxes to any taxing authority of the State of  
Ohio, and does not owe delinquent taxes for which \_\_\_\_\_  
(insert name of owner) is liable under Chapter 5733., 5735.,  
5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code,  
or, if such delinquent taxes are owed, \_\_\_\_\_ (insert name  
of owner) currently is paying the delinquent taxes pursuant to  
an undertaking enforceable by the State of Ohio or an agent or  
instrumentality thereof, has filed a petition in bankruptcy  
under 11 U.S.C.A. 101, et seq., or such a petition has been  
filed against \_\_\_\_\_ (insert name of owner). For the  
purposes of this certification, delinquent taxes are taxes that  
remain unpaid on the latest day prescribed for payment without  
penalty under the chapter of the Revised Code governing payment  
of those taxes."~~ 297  
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~~(4) "\_\_\_\_\_ (insert name of municipal corporation or  
county) shall perform such acts as are reasonably necessary or  
appropriate to effect, claim, reserve, and maintain exemptions  
from taxation granted under this agreement including, without  
limitation, joining in the execution of all documentation and~~ 314  
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~~providing any necessary certificates required in connection with such exemptions."~~ 319  
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~~(5) "If for any reason \_\_\_\_\_ (insert name of municipal corporation or county) revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless \_\_\_\_\_ (insert name of owner) materially fails to fulfill its obligations under this agreement and \_\_\_\_\_ (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation pursuant to this agreement."~~ 321  
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~~(6) "If \_\_\_\_\_ (insert name of owner) materially fails to fulfill its obligations under this agreement, or if \_\_\_\_\_ (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, \_\_\_\_\_ (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."~~ 329  
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~~(7) "\_\_\_\_\_ (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council."~~ 336  
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~~(8) "This agreement is not transferable or assignable without the express, written approval of \_\_\_\_\_ (insert name of municipal corporation or county)."~~ 342  
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~~(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that \_\_\_\_\_ (insert name of owner), any successor to that person, or any related~~ 345  
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~~member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."~~ 348  
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~~(10) "\_\_\_\_\_ (insert name of owner) and \_\_\_\_\_ (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of \_\_\_\_\_ (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."~~ 354  
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~~(11) If the agreement relates to a commercial or industrial structure described in division (D) (2) (a) of section 3735.67 of the Revised Code for which the legislative authority has authorized an exemption period of more than fifteen years, both of the following:~~ 360  
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~~(a) A requirement that the owner of the structure annually certify to the legislative authority whether the megaproject operator of the megaproject upon which the structure is situated or the megaproject supplier, as applicable, holds a certificate issued under division (D) (11) of section 122.17 of the Revised Code or whether such certificate has been modified or terminated;~~ 365  
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~~(b) A provision authorizing the legislative authority to terminate the exemption for current and subsequent tax years if the megaproject operator or megaproject supplier does not comply with the terms of the agreement or hold a certificate issued under division (D) (11) of section 122.17 of the Revised Code on the first day of the current tax year.~~ 372  
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~~The statement described in division (C)(6) of this section~~ 378  
~~may include the following statement, appended at the end of the~~ 379  
~~statement: ", and may require the repayment of the amount of~~ 380  
~~taxes that would have been payable had the property not been~~ 381  
~~exempted from taxation under this agreement." If the agreement~~ 382  
~~includes a statement requiring repayment of exempted taxes, it~~ 383  
~~also may authorize the legislative authority to secure repayment~~ 384  
~~of such taxes by a lien on the exempted property in the amount~~ 385  
~~required to be repaid. Such a lien shall attach, and may be~~ 386  
~~perfected, collected, and enforced, in the same manner as a~~ 387  
~~mortgage lien on real property, and shall otherwise have the~~ 388  
~~same force and effect as a mortgage lien on real property.~~ 389

~~(D) Except as otherwise provided in this division, an~~ 390  
~~agreement entered into under this section shall require that the~~ 391  
~~owner pay an annual fee equal to the greater of one per cent of~~ 392  
~~the amount of taxes exempted under the agreement or five hundred~~ 393  
~~dollars; provided, however, that if the value of the incentives~~ 394  
~~exceeds two hundred fifty thousand dollars, the fee shall not~~ 395  
~~exceed two thousand five hundred dollars. The fee shall be~~ 396  
~~payable to the legislative authority once per year for each year~~ 397  
~~the agreement is effective on the days and in the form specified~~ 398  
~~in the agreement. Fees paid shall be deposited in a special fund~~ 399  
~~created for such purpose by the legislative authority and shall~~ 400  
~~be used by the legislative authority exclusively for the purpose~~ 401  
~~of complying with section 3735.672 of the Revised Code and by~~ 402  
~~the tax incentive review council created under section 5709.85~~ 403  
~~of the Revised Code exclusively for the purposes of performing~~ 404  
~~the duties prescribed under that section. The legislative~~ 405  
~~authority may waive or reduce the amount of the fee, but such~~ 406  
~~waiver or reduction does not affect the obligations of the~~ 407  
~~legislative authority or the tax incentive review council to~~ 408

~~comply with section 3735.672 or 5709.85 of the Revised Code.~~ 409

~~(E) The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing the form of a model agreement that a legislative authority may, in its discretion, use as the basis for an agreement to be executed under this section. The model agreement may include any term necessary for the administration and enforcement of such agreements by the director and legislative authority, but must include all of the following:~~ 410  
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~~(1) A space to include the description of real property to be exempted from taxation under the agreement and to identify the property's owners;~~ 418  
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~~(2) A space to denote the percentage of the assessed valuation of real property exempted from taxation and the period for which the exemption is granted;~~ 421  
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~~(3) A statement requiring the owner to pay real property taxes not exempted under the agreement, as required by law, and requiring rescission of the agreement if the owner fails to pay those taxes beginning in and after the year any such taxes are charged;~~ 424  
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~~(4) A statement that the owner certifies, at the time the agreement is executed, that the owner does not owe any delinquent property taxes or taxes for which the owner is liable under Chapter 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, that the owner is paying the delinquent taxes pursuant to an undertaking enforceable by the state or an agent or instrumentality thereof, has filed a petition in bankruptcy, or has had a bankruptcy petition filed against the owner;~~ 429  
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(5) A statement requiring the owner to provide to the 438  
property tax incentive review council any information reasonably 439  
required by the council to evaluate the applicant's compliance 440  
with the agreement; 441

(6) A statement that the agreement is not transferable or 442  
assignable without the approval of the local authority; 443

(7) A statement describing the circumstances under which 444  
an agreement may be revoked by the local authority for 445  
noncompliance and the manner by which already-received benefits 446  
may be recovered; 447

(8) A statement requiring the owner to provide an estimate 448  
of the following for each agreement: 449

(a) The number of employment opportunities created due to 450  
the remodeling or construction, as well as the payroll 451  
attributable to those opportunities; 452

(b) The number of employment opportunities retained due to 453  
the remodeling or construction, as well as the payroll 454  
attributable to those opportunities. 455

Once the director adopts rules prescribing a model 456  
agreement under this division, the model agreement may not be 457  
changed unless the director adopts, amends, or rescinds those 458  
rules in accordance with Chapter 119. of the Revised Code. 459

(C) If any person that is party to an agreement granting 460  
an exemption from taxation discontinues operations at the 461  
structure to which that exemption applies prior to the 462  
expiration of the term of the agreement, that person, any 463  
successor to that person, and any related member shall not enter 464  
into an agreement under this section or section 5709.62, 465  
5709.63, or 5709.632 of the Revised Code, and no legislative 466



authority shall enter into such an agreement with such a person, 467  
successor, or related member, prior to the expiration of ~~five-~~ 468  
three years after the person's discontinuation of operations. As 469  
used in this division, "successor" means a person to which the 470  
assets or equity of another person has been transferred, which 471  
transfer resulted in the full or partial nonrecognition of gain 472  
or loss, or resulted in a carryover basis, both as determined by 473  
rule adopted by the tax commissioner. "Related member" has the 474  
same meaning as defined in section 5733.042 of the Revised Code 475  
without regard to division (B) of that section. 476

The director of development ~~services~~ shall review all 477  
agreements submitted to the director ~~under division (F) of this-~~ 478  
~~section under section 3735.672 of the Revised Code~~ for the 479  
purpose of enforcing this division. If the director determines 480  
there has been a violation of this division, the director shall 481  
notify the legislative authority of such violation, and the 482  
legislative authority immediately shall revoke the exemption 483  
granted under the agreement. 484

~~(F) When an agreement is entered into under this section,~~ 485  
~~the legislative authority authorizing the agreement shall-~~ 486  
~~forward a copy of the agreement to the director of development-~~ 487  
~~services within fifteen days after the agreement is entered-~~ 488  
~~into.~~ 489

**Sec. 3735.672.** (A) On or before the thirty-first day of 490  
March each year, a legislative authority that has entered into 491  
an agreement with a party under section 3735.671 of the Revised 492  
Code shall submit to the director of development ~~services and-~~ 493  
~~the board of education of each school district of which a-~~ 494  
~~municipal corporation or township to which such an agreement-~~ 495  
~~applies is a part~~ a report on all such agreements in effect 496

during the preceding calendar year. The report shall include the 497  
following ~~information~~: 498

(1) ~~The designation, assigned by the director of~~ 499  
~~development services, of each total number of community~~ 500  
~~reinvestment area within areas designated by the municipal~~ 501  
~~corporation or county political subdivision, and the total~~ 502  
population of each area according to the most recent data 503  
available; 504

(2) ~~The total number of agreements ~~and the number of full-~~ 505  
~~time employees subject to those agreements within each area,~~ 506  
~~each according to the most recent data available and identified~~ 507  
~~and categorized by the appropriate standard industrial code, and~~ 508  
~~the rate of unemployment in the municipal corporation or county~~ 509  
~~in which the area is located for each year since the area was~~ 510  
~~certified;~~ 511~~

(3) The number of agreements approved and executed during 512  
the calendar year for which the report is submitted, the total 513  
number of agreements in effect on the thirty-first day of 514  
December of the preceding calendar year, the number of 515  
agreements that expired during the calendar year for which the 516  
report is submitted, and the number of agreements scheduled to 517  
expire during the calendar year in which the report is 518  
submitted. For each agreement that expired during the calendar 519  
year for which the report is submitted, the legislative 520  
authority shall include the amount of taxes exempted under the 521  
agreement. 522

(4) ~~The number of agreements receiving compliance reviews~~ 523  
~~by the tax incentive review council in the municipal corporation~~ 524  
~~or county during the calendar year for which the report is~~ 525  
~~submitted, including all of the following information:~~ 526

~~(a) The number of agreements the terms of which the party has complied with, indicating separately for each such agreement the value of the real property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, and for the amount of payroll of the party attributable to these employees;~~ 527  
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~~(b) The number of agreements the terms of which a party has failed to comply with, indicating separately for each such agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated estimated and actual schedules for hiring new employees, for retaining existing employees, and for the amount of payroll of the enterprise attributable to these employees amounts described in division (B) (8) of section 3735.671 of the Revised Code;~~ 534  
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~~(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority, and the number of such recommendations that have not been followed;~~ 542  
543  
544  
545

~~(d) The number of agreements rescinded during the calendar year for which the report is submitted.~~ 546  
547

~~(5) The number of parties subject to agreements that expanded within each area, including the number of new employees hired and existing employees retained by that party, and the number of new parties subject to agreements that established within each area, including the number of new employees hired by each party;~~ 548  
549  
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551  
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553

~~(6) For each agreement in effect during any part of the preceding year, the number of employees employed by the party at~~ 554  
555

~~the property that is the subject of the agreement immediately~~ 556  
~~prior to formal approval of the agreement, the number of~~ 557  
~~employees employed by the party at that property on the thirty~~ 558  
~~first day of December of the preceding year, the payroll of the~~ 559  
~~party for the preceding year, the amount of taxes paid on real~~ 560  
~~property that was exempted under the agreement, and the amount~~ 561  
~~of such taxes that were not paid because of the exemption~~ 562  
Any 562  
changes to zoning restrictions in any part of a community 563  
reinvestment area, including a map of the area indicating the 564  
new zoning restrictions in the area; 565

(6) A copy of any agreement approved and executed or 566  
amended during the calendar year for which the report is 567  
submitted. 568

(B) Upon the failure of a ~~municipal corporation or county~~ 569  
~~political subdivision~~ to comply with division (A) of this 570  
section: 571

(1) Beginning on the first day of April of the calendar 572  
year in which the ~~municipal corporation or county political~~ 573  
~~subdivision~~ fails to comply with that division, the ~~municipal~~ 574  
~~corporation or county political subdivision~~ shall not enter into 575  
any agreements under section 3735.671 of the Revised Code until 576  
the ~~municipal corporation or county political subdivision~~ has 577  
complied with division (A) of this section. 578

(2) On the first day of each ensuing calendar month until 579  
the ~~municipal corporation or county political subdivision~~ 580  
complies with that division, the director of development 581  
~~services~~ shall either order the proper county auditor to deduct 582  
from the next succeeding payment of taxes to the ~~municipal~~ 583  
~~corporation or county political subdivision~~ under section 584  
321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount 585

equal to five hundred dollars for each calendar month the 586  
~~municipal corporation or county political subdivision~~ fails to 587  
comply with that division, or order the county auditor to deduct 588  
such an amount from the next succeeding payment to the ~~municipal-~~ 589  
~~corporation or county political subdivision~~ from the undivided 590  
local government fund under section 5747.51 of the Revised Code. 591  
At the time such a payment is made, the county auditor shall 592  
comply with the director's order by issuing a warrant, drawn on 593  
the fund from which such money would have been paid, to the 594  
director of development ~~services~~, who shall deposit the warrant 595  
into the ~~state community reinvestment area program-~~ 596  
~~administration tax incentives operating fund created in division-~~ 597  
~~(C) of this by section 122.174 of the Revised Code.~~ 598

(C) ~~The director, by rule, shall establish the state's-~~ 599  
~~application fee for applications submitted to a municipal-~~ 600  
~~corporation or county to enter into an agreement under section-~~ 601  
~~3735.671 of the Revised Code. In establishing the amount of the-~~ 602  
~~fee, the director shall consider the state's cost of-~~ 603  
~~administering the community reinvestment area program, including-~~ 604  
~~the cost of reviewing the reports required under division (A) of-~~ 605  
~~this section. The director may change the amount of the fee at-~~ 606  
~~such times and in such increments as the director considers-~~ 607  
~~necessary. Any municipal corporation or county that receives an-~~ 608  
~~application shall collect the application fee and remit the fee-~~ 609  
~~for deposit in the state treasury to the credit of the tax-~~ 610  
~~incentives operating fund created in section 122.174 of the-~~ 611  
~~Revised Code.~~ The department of development shall publish on its 612  
web site a list of all community reinvestment areas within the 613  
state, with an accompanying display of their geographical 614  
boundaries within each political subdivision. The list shall 615  
also include, for each community reinvestment area, a copy of 616

the resolution governing that area and any agreement entered 617  
into under section 3735.671 of the Revised Code for any 618  
commercial or industrial property within the area. This list 619  
shall be updated annually. 620

**Sec. 3735.673.** If a person operating in a ~~county or~~ 621  
~~municipal corporation in this state~~ political subdivision 622  
intends to relocate or relocates part or all of its operations 623  
to another ~~county or municipal corporation in this state~~ 624  
political subdivision and has entered into or intends to enter 625  
into an agreement under section 3735.671 of the Revised Code 626  
with that ~~county or municipal corporation~~ political subdivision, 627  
the legislative authority ~~or an officer~~ of the ~~county or~~ 628  
~~municipal corporation~~ political subdivision to which that person 629  
intends to relocate or relocates shall serve the legislative 630  
authority of the ~~county or municipal corporation~~ subdivision 631  
from which that person intends to relocate or relocates with 632  
notice of the person's intention to relocate, accompanied by a 633  
copy of the agreement to be entered into or entered into 634  
pursuant to section 3735.671 of the Revised Code and a statement 635  
of the person's reasons for relocation. The legislative 636  
authority ~~or officer~~ also shall serve such notice on the 637  
director of development. In both cases, service shall be by 638  
personal service or certified mail, return receipt requested, 639  
not later than thirty days prior to the day of the first public 640  
meeting at which the agreement is deliberated by the legislative 641  
authority of the ~~county or municipal corporation~~ political 642  
subdivision to which the person intends to relocate or 643  
relocates. With the approval of the director of development, 644  
service shall be not later than fifteen days prior to the day of 645  
the first public meeting of the legislative authority at which 646  
the agreement is deliberated. The legislative authority ~~or~~ 647

~~officer~~ required to serve notice shall seek such approval by 648  
applying to the director at the earliest possible time prior to 649  
that meeting. The director may approve the later service if the 650  
director determines that earlier notice is not possible or would 651  
be likely to jeopardize realization of the project. If approval 652  
for a later notice is applied for, the legislative authority ~~or~~ 653  
~~officer~~ need not serve notice to the director as otherwise 654  
required by this section. 655

If the legislative authority ~~or officer~~ required to serve 656  
such notice fails to do so as prescribed by this section, the 657  
legislative authority shall not enter into an agreement under 658  
that section with that person. 659

This section applies only to relocations of operations 660  
that result or would result in the reduction of employment or 661  
the cessation of operations at a place of business in this 662  
state. 663

**Sec. 3735.68.** The housing officer shall make annual 664  
inspections of the properties within the community reinvestment 665  
area upon which are located structures or remodeling for which 666  
an exemption has been granted under section 3735.67 of the 667  
Revised Code. If the housing officer finds that the property has 668  
not been properly maintained or repaired due to the neglect of 669  
the owner, the housing officer may revoke the exemption at any 670  
time after the first year of exemption. If the owner of 671  
commercial or industrial property exempted from taxation under 672  
section 3735.67 of the Revised Code has materially failed to 673  
fulfill its obligations under the written agreement entered into 674  
under section 3735.671 of the Revised Code, or if the owner is 675  
determined to have violated division ~~(E)~~ (C) of that section, 676  
the legislative authority, subject to the terms of the 677

agreement, may revoke the exemption at any time after the first 678  
year of exemption. The housing officer or legislative authority 679  
shall notify the county auditor and the owner of the property 680  
that the tax exemption no longer applies. If the housing officer 681  
or legislative authority revokes a tax exemption, the housing 682  
officer shall send a report of the revocation to the community 683  
reinvestment area housing council and to the tax incentive 684  
review council established pursuant to section 3735.69 or 685  
5709.85 of the Revised Code, containing a statement of the 686  
findings as to the maintenance and repair of the property, 687  
failure to fulfill obligations under the written agreement, or 688  
violation of division ~~(E)~~ (C) of section 3735.671 of the Revised 689  
Code, and the reason for revoking the exemption. 690

If the agreement entered into under section 3735.671 of 691  
the Revised Code so provides, the legislative authority of a 692  
~~municipal corporation or county political subdivision~~ may 693  
require the owner of property whose exemption has been revoked 694  
to reimburse the taxing authorities within whose taxing 695  
jurisdiction the exempted property is located for the amount of 696  
real property taxes that would have been payable to those 697  
authorities had the property not been exempted from taxation. 698

**Sec. 3735.69.** (A) A community reinvestment area housing 699  
council shall be appointed for each community reinvestment 700  
area, as follows: 701

(1) When the area is ~~located within a~~ designated by a 702  
municipal corporation, the council shall be composed of two 703  
members appointed by the mayor of the municipal corporation, two 704  
members appointed by the legislative authority of the municipal 705  
corporation, and one member appointed by the planning commission 706  
of the municipal corporation. The majority of the foregoing 707



members shall then appoint two additional members who shall be 708  
residents of the ~~political subdivision~~ municipal corporation. 709  
~~When~~ 710

(2) When the area is designated by a limited home rule 711  
township, the council shall be composed of two members appointed 712  
by the board of trustees of the township, one member appointed 713  
by the township law director, one member appointed by the 714  
township zoning commission or, if the township has not 715  
established such a commission, the county planning commission, 716  
and one member appointed by the board of county commissioners of 717  
the county where the area is located. 718

(3) When the area is located within an unincorporated area 719  
of ~~designated by a county~~, the council shall be composed of one 720  
member appointed by each member of the board of county 721  
commissioners of the county where the area is located and two 722  
members appointed by the county planning commission. The 723  
majority of the foregoing members shall then appoint two 724  
additional members who shall be residents of the ~~political~~ 725  
~~subdivision~~ county. Terms of the members of the council shall be 726  
for three years. ~~An~~ 727

An unexpired term resulting from a vacancy in the council 728  
shall be filled in the same manner as the initial appointment 729  
was made. 730

The council shall make an annual inspection of the 731  
properties within the community reinvestment area for which an 732  
exemption has been granted under section 3735.67 of the Revised 733  
Code. The council shall also hear appeals under section 3735.70 734  
of the Revised Code. 735

(B) On or before the thirty-first day of March each year, 736

any ~~municipal corporation or county~~ political subdivision that 737  
has created a community reinvestment area under section 3735.66 738  
of the Revised Code shall submit to the director of development 739  
a status report summarizing the activities and projects for 740  
which an exemption has been granted in that area. 741

**Sec. 5709.631.** Each agreement entered into under sections 742  
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 743  
April 1, 1994, shall be in writing and shall include all of the 744  
information and statements prescribed by this section. 745  
Agreements may include terms not prescribed by this section, but 746  
such terms shall in no way derogate from the information and 747  
statements prescribed by this section. 748

(A) Each agreement shall include the following 749  
information: 750

(1) The names of all parties to the agreement; 751

(2) A description of the investments to be made by the 752  
applicant enterprise or by another party at the facility whether 753  
or not the investments are exempted from taxation, including 754  
existing or new building size and cost thereof; the value of 755  
machinery, equipment, furniture, and fixtures, including an 756  
itemization of the value of machinery, equipment, furniture, and 757  
fixtures used at another location in this state prior to the 758  
agreement and relocated or to be relocated from that location to 759  
the facility and the value of machinery, equipment, furniture, 760  
and fixtures at the facility prior to the execution of the 761  
agreement that will not be exempted from taxation; the value of 762  
inventory at the facility, including an itemization of the value 763  
of inventory held at another location in this state prior to the 764  
agreement and relocated or to be relocated from that location to 765  
the facility, and the value of inventory held at the facility 766

|  |     |
|--|-----|
| prior to the execution of the agreement that will not be         | 767 |
| exempted from taxation;  | 768 |
| (3) The scheduled starting and completion dates of               | 769 |
| investments made in building, machinery, equipment, furniture,   | 770 |
| fixtures, and inventory;   | 771 |
| (4) Estimates of the number of employee positions to be          | 772 |
| created each year of the agreement and of the number of employee | 773 |
| positions retained by the applicant enterprise due to the        | 774 |
| project, itemized as to the number of full-time, part-time,      | 775 |
| permanent, and temporary positions;                              | 776 |
| (5) Estimates of the dollar amount of payroll attributable       | 777 |
| to the positions set forth in division (A) (4) of this section,  | 778 |
| similarly itemized;  | 779 |
| (6) The number of employee positions, if any, at the             | 780 |
| project site and at any other location in the state at the time  | 781 |
| the agreement is executed, itemized as to the number of full-    | 782 |
| time, part-time, permanent, and temporary positions.             | 783 |
| (B) Each agreement shall set forth the following                 | 784 |
| information and incorporate the following statements:            | 785 |
| (1) A description of real property to be exempted from           | 786 |
| taxation under the agreement, the percentage of the assessed     | 787 |
| valuation of the real property exempted from taxation, and the   | 788 |
| period for which the exemption is granted, accompanied by the    | 789 |
| statement: "The exemption commences the first year for which the | 790 |
| real property would first be taxable were that property not      | 791 |
| exempted from taxation. No exemption shall commence              | 792 |
| after ..... (insert date) nor extend beyond .....                | 793 |
| (insert date)." The tax commissioner shall adopt rules           | 794 |
| prescribing the form the description of such property shall      | 795 |

assume to ensure that the property to be exempted from taxation 796  
under the agreement is distinguishable from property that is not 797  
to be exempted under that agreement. 798

(2) A description of tangible personal property to be 799  
exempted from taxation under the agreement, the percentage of 800  
the assessed value of the tangible personal property exempted 801  
from taxation, and the period for which the exemption is 802  
granted, accompanied by the statement: "The minimum investment 803  
for tangible personal property to qualify for the exemption is 804  
\$..... (insert dollar amount) to purchase machinery and 805  
equipment first used in business at the facility as a result of 806  
the project, \$..... (insert dollar amount) for furniture 807  
and fixtures and other noninventory personal property first used 808  
in business at the facility as a result of the project, and 809  
\$..... (insert dollar amount) for new inventory. The 810  
maximum investment for tangible personal property to qualify for 811  
the exemption is \$..... (insert dollar amount) to purchase 812  
machinery and equipment first used in business at the facility 813  
as a result of the project, \$..... (insert dollar amount) 814  
for furniture and fixtures and other noninventory personal 815  
property first used in business at the facility as a result of 816  
the project, and \$..... (insert dollar amount) for new 817  
inventory. The exemption commences the first year for which the 818  
tangible personal property would first be taxable were that 819  
property not exempted from taxation. No exemption shall commence 820  
after tax return year ..... (insert year) nor extend beyond 821  
tax return year ..... (insert year). In no instance shall 822  
any tangible personal property be exempted from taxation for 823  
more than ten return years unless, under division (D) (2) of 824  
section 5709.62 or under division (C) (1) (b) of section 5709.63 825  
of the Revised Code, the board of education approves exemption 826

for a number of years in excess of ten, in which case the 827  
tangible personal property may be exempted from taxation for 828  
that number of years, not to exceed fifteen return years." No 829  
exemption shall be allowed for any type of tangible personal 830  
property if the total investment is less than the minimum dollar 831  
amount specified for that type of property. If, for a type of 832  
tangible personal property, there are no minimum or maximum 833  
investment dollar amounts specified in the statement or the 834  
dollar amounts are designated in the statement as not 835  
applicable, the exemption shall apply to the total cost of that 836  
type of tangible personal property first used in business at the 837  
facility as a result of the project. The tax commissioner shall 838  
adopt rules prescribing the form the description of such 839  
property shall assume to ensure that the property to be exempted 840  
from taxation under the agreement is distinguishable from 841  
property that is not to be exempted under that agreement. 842

(3) "..... (insert name of enterprise) shall pay such 843  
real and tangible personal property taxes as are not exempted 844  
under this agreement and are charged against such property and 845  
shall file all tax reports and returns as required by law. 846  
If ..... (insert name of enterprise) fails to pay such 847  
taxes or file such returns and reports, all incentives granted 848  
under this agreement are rescinded beginning with the year for 849  
which such taxes are charged or such reports or returns are 850  
required to be filed and thereafter." 851

(4) "..... (insert name of enterprise) hereby 852  
certifies that at the time this agreement is 853  
executed, ..... (insert name of enterprise) does not owe 854  
any delinquent real or tangible personal property taxes to any 855  
taxing authority of the State of Ohio, and does not owe 856  
delinquent taxes for which ..... (insert name of 857

enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 858  
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 859  
delinquent taxes are owed, ..... (insert name of 860  
enterprise) currently is paying the delinquent taxes pursuant to 861  
a delinquent tax contract enforceable by the State of Ohio or an 862  
agent or instrumentality thereof, has filed a petition in 863  
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 864  
has been filed against ..... (insert name of enterprise). 865  
For the purposes of the certification, delinquent taxes are 866  
taxes that remain unpaid on the latest day prescribed for 867  
payment without penalty under the chapter of the Revised Code 868  
governing payment of those taxes." 869

(5) "..... (insert name of municipal corporation or 870  
county) shall perform such acts as are reasonably necessary or 871  
appropriate to effect, claim, reserve, and maintain exemptions 872  
from taxation granted under this agreement including, without 873  
limitation, joining in the execution of all documentation and 874  
providing any necessary certificates required in connection with 875  
such exemptions." 876

(6) "If for any reason the enterprise zone designation 877  
expires, the Director of the Ohio Department of Development 878  
revokes certification of the zone, or ..... (insert name of 879  
municipal corporation or county) revokes the designation of the 880  
zone, entitlements granted under this agreement shall continue 881  
for the number of years specified under this agreement, 882  
unless ..... (insert name of enterprise) materially fails 883  
to fulfill its obligations under this agreement and ..... 884  
(insert name of municipal corporation or county) terminates or 885  
modifies the exemptions from taxation granted under this 886  
agreement." 887

(7) "If ..... (insert name of enterprise) materially 888  
fails to fulfill its obligations under this agreement, other 889  
than with respect to the number of employee positions estimated 890  
to be created or retained under this agreement, or if ..... 891  
(insert name of municipal corporation or county) determines that 892  
the certification as to delinquent taxes required by this 893  
agreement is fraudulent, ..... (insert name of municipal 894  
corporation or county) may terminate or modify the exemptions 895  
from taxation granted under this agreement." 896

(8) "..... (insert name of enterprise) shall provide 897  
to the proper tax incentive review council any information 898  
reasonably required by the council to evaluate the enterprise's 899  
compliance with the agreement, including returns or annual 900  
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 901  
Revised Code if requested by the council." 902

(9) "..... (insert name of enterprise) and ..... 903  
(insert name of municipal corporation or county) acknowledge 904  
that this agreement must be approved by formal action of the 905  
legislative authority of ..... (insert name of municipal 906  
corporation or county) as a condition for the agreement to take 907  
effect. This agreement takes effect upon such approval." 908

(10) "This agreement is not transferable or assignable 909  
without the express, written approval of ..... (insert name 910  
of municipal corporation or county)." 911

(11) "Exemptions from taxation granted under this 912  
agreement shall be revoked if it is determined 913  
that ..... (insert name of enterprise), any successor 914  
enterprise, or any related member (as those terms are defined in 915  
section 5709.61 of the Ohio Revised Code) has violated the 916  
prohibition against entering into this agreement under division 917

~~(E)~~ (C) of section 3735.671 or section 5709.62, 5709.63, or 918  
5709.632 of the Ohio Revised Code prior to the time prescribed 919  
by that division or either of those sections." 920

(12) "In any three-year period during which this agreement 921  
is in effect, if the actual number of employee positions created 922  
or retained by..... (insert name of enterprise) is not equal 923  
to or greater than seventy-five per cent of the number of 924  
employee positions estimated to be created or retained under 925  
this agreement during that three-year period,..... (insert 926  
name of enterprise) shall repay the amount of taxes on property 927  
that would have been payable had the property not been exempted 928  
from taxation under this agreement during that three-year 929  
period. In addition, the..... (insert name of municipal 930  
corporation or county) may terminate or modify the exemptions 931  
from taxation granted under this agreement." 932

(13) If the enterprise is the owner of real property 933  
constituting the site of a megaproject or is a megaproject 934  
supplier, both of the following: 935

(a) A requirement that the enterprise annually certify to 936  
the legislative authority whether the megaproject operator or 937  
megaproject supplier, as applicable, holds a certificate issued 938  
under division (D) (7) of section 122.17 of the Revised Code on 939  
the first day of the current tax year; 940

(b) A provision authorizing the legislative authority to 941  
terminate the exemption for current and subsequent tax years if 942  
the megaproject operator or megaproject supplier, as applicable, 943  
does not hold a certificate issued under division (D) (7) of 944  
section 122.17 of the Revised Code on the first day of the 945  
current tax year. 946



The statement described in division (B)(7) of this section 947  
may include the following statement, appended at the end of the 948  
statement: "and may require the repayment of the amount of taxes 949  
that would have been payable had the property not been exempted 950  
from taxation under this agreement." If the agreement includes a 951  
statement requiring repayment of exempted taxes, it also may 952  
authorize the legislative authority to secure repayment of such 953  
taxes by a lien on the exempted property in the amount required 954  
to be repaid. Such a lien on exempted real property shall 955  
attach, and may be perfected, collected, and enforced, in the 956  
same manner as a mortgage lien on real property, and shall 957  
otherwise have the same force and effect as a mortgage lien on 958  
real property. Notwithstanding section 5719.01 of the Revised 959  
Code, such a lien on exempted tangible personal property shall 960  
attach, and may be perfected, collected, and enforced, in the 961  
same manner as a security interest in goods under Chapter 1309. 962  
of the Revised Code, and shall otherwise have the same force and 963  
effect as such a security interest. 964

(C) If the director of development had to issue a waiver 965  
under section 5709.633 of the Revised Code as a condition for 966  
the agreement to be executed, the agreement shall include the 967  
following statement: 968

"Continuation of this agreement is subject to the validity 969  
of the circumstance upon which ..... (insert name of 970  
enterprise) applied for, and the Director of the Ohio Department 971  
of Development issued, the waiver pursuant to section 5709.633 972  
of the Ohio Revised Code. If, after formal approval of this 973  
agreement by ..... (insert name of municipal corporation or 974  
county), the Director or ..... (insert name of municipal 975  
corporation or county) discovers that such a circumstance did 976  
not exist, ..... (insert name of enterprise) shall be 977

deemed to have materially failed to comply with this agreement." 978

If the director issued a waiver on the basis of the 979  
circumstance described in division (B) (3) of section 5709.633 of 980  
the Ohio Revised Code, the conditions enumerated in divisions 981  
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 982  
section shall be incorporated in the information described in 983  
divisions (A) (2), (3), and (4) of this section. 984

**Sec. 5709.82.** (A) As used in this section: 985

(1) "New employee" means both of the following: 986

(a) Persons employed in the construction of real property 987  
exempted from taxation under the chapters or sections of the 988  
Revised Code enumerated in division (B) of this section; 989

(b) Persons not described by division (A) (1) (a) of this 990  
section who are first employed at the site of such property and 991  
who within the two previous years have not been subject, prior 992  
to being employed at that site, to income taxation by the 993  
municipal corporation within whose territory the site is located 994  
on income derived from employment for the person's current 995  
employer. "New employee" does not include any person who 996  
replaces a person who is not a new employee under division (A) 997  
(1) of this section. 998

(2) "Infrastructure costs" means costs incurred by a 999  
municipal corporation in a calendar year to acquire, construct, 1000  
reconstruct, improve, plan, or equip real or tangible personal 1001  
property that directly benefits or will directly benefit the 1002  
exempted property. If the municipal corporation finances the 1003  
acquisition, construction, reconstruction, improvement, 1004  
planning, or equipping of real or tangible personal property 1005  
that directly benefits the exempted property by issuing debt, 1006

"infrastructure costs" means the annual debt charges incurred by the municipal corporation from the issuance of such debt. Real or tangible personal property directly benefits exempted property only if the exempted property places or will place direct, additional demand on the real or tangible personal property for which such costs were or will be incurred.

(3) "Taxing unit" has the same meaning as in division (H) of section 5705.01 of the Revised Code.

(B)(1) Except as otherwise provided under division (C) of this section, the legislative authority of any political subdivision that has acted under the authority of Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code to grant an exemption from taxation for real or tangible personal property may negotiate with the board of education of each city, local, exempted village, or joint vocational school district or other taxing unit within the territory of which the exempted property is located, and enter into an agreement whereby the school district or taxing unit is compensated for tax revenue foregone by the school district or taxing unit as a result of the exemption. Except as otherwise provided in division (B)(1) of this section, if a political subdivision enters into more than one agreement under this section with respect to a tax exemption, the political subdivision shall provide to each school district or taxing unit with which it contracts the same percentage of tax revenue foregone by the school district or taxing unit, which may be based on a good faith projection made at the time the exemption is granted. Such percentage shall be calculated on the basis of amounts paid by the political subdivision and any amounts paid by an owner under division (B)

(2) of this section. A political subdivision may provide a 1038  
school district or other taxing unit with a smaller percentage 1039  
of foregone tax revenue than that provided to other school 1040  
districts or taxing units only if the school district or taxing 1041  
unit expressly consents in the agreement to receiving a smaller 1042  
percentage. If a subdivision has acted under the authority of 1043  
section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 1044  
5709.632, 5709.73, or 5709.78 of the Revised Code and enters 1045  
into a compensation agreement with a city, local, or exempted 1046  
village school district, the subdivision shall provide 1047  
compensation to the joint vocational school district within the 1048  
territory of which the exempted property is located at the same 1049  
rate and under the same terms as received by the city, local, or 1050  
exempted village school district. 1051

(2) An owner of property exempted from taxation under the 1052  
authority described in division (B)(1) of this section may, by 1053  
becoming a party to an agreement described in division (B)(1) of 1054  
this section or by entering into a separate agreement with a 1055  
school district or other taxing unit, agree to compensate the 1056  
school district or taxing unit by paying cash or by providing 1057  
property or services by gift, loan, or otherwise. If the owner's 1058  
property is exempted under the authority of section 3735.671, 1059  
5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 1060  
or 5709.78 of the Revised Code and the owner enters into a 1061  
compensation agreement with a city, local, or exempted village 1062  
school district, the owner shall provide compensation to the 1063  
joint vocational school district within the territory of which 1064  
the owner's property is located at the same rate and under the 1065  
same terms as received by the city, local, or exempted village 1066  
school district. 1067

(C) This division does not apply to the following: 1068

(1) The legislative authority of a municipal corporation 1069  
that has acted under the authority of division (H) of section 1070  
715.70 or division (U) of section 715.72 of the Revised Code to 1071  
consent to the granting of an exemption from taxation for real 1072  
or tangible personal property in a joint economic development 1073  
district. 1074

(2) The legislative authority of a municipal corporation 1075  
that has specified in an ordinance adopted under section 1076  
5709.40, 5709.41, or 5709.45 of the Revised Code that payments 1077  
in lieu of taxes provided for under section 5709.42 or 5709.46 1078  
of the Revised Code shall be paid to the city, local, or 1079  
exempted village school district in which the improvements are 1080  
located in the amount of taxes that would have been payable to 1081  
the school district if the improvements had not been exempted 1082  
from taxation, as directed in the ordinance. 1083

If the legislative authority of any municipal corporation 1084  
has acted under the authority of Chapter 725. or 1728. or 1085  
section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 1086  
5709.632, or 5709.88, or a housing officer under section 3735.67 1087  
of the Revised Code, to grant or consent to the granting of an 1088  
exemption from taxation for real or tangible personal property 1089  
on or after July 1, 1994, the municipal corporation imposes a 1090  
tax on incomes, and the payroll of new employees resulting from 1091  
the exercise of that authority equals or exceeds one million 1092  
dollars, or two million dollars, as adjusted under division (E) 1093  
of this section, in the case of the authority exercised under 1094  
section 3735.67 or 3735.671 of the Revised Code, in any tax year 1095  
for which such property is exempted, the legislative authority 1096  
and the board of education of each city, local, or exempted 1097  
village school district within the territory of which the 1098  
exempted property is located shall attempt to negotiate an 1099

agreement providing for compensation to the school district for 1100  
all or a portion of the tax revenue the school district would 1101  
have received had the property not been exempted from taxation. 1102  
The agreement may include as a party the owner of the property 1103  
exempted or to be exempted from taxation and may include 1104  
provisions obligating the owner to compensate the school 1105  
district by paying cash or providing property or services by 1106  
gift, loan, or otherwise. Such an obligation is enforceable by 1107  
the board of education of the school district pursuant to the 1108  
terms of the agreement. 1109

If the legislative authority and board of education fail 1110  
to negotiate an agreement that is mutually acceptable within six 1111  
months of formal approval by the legislative authority of the 1112  
instrument granting the exemption, the legislative authority 1113  
shall compensate the school district in the amount and manner 1114  
prescribed by division (D) of this section. 1115

(D) Annually, the legislative authority of a municipal 1116  
corporation subject to this division shall pay to the city, 1117  
local, or exempted village school district within the territory 1118  
of which the exempted property is located an amount equal to 1119  
fifty per cent of the difference between the amount of taxes 1120  
levied and collected by the municipal corporation on the incomes 1121  
of new employees in the calendar year ending on the day the 1122  
payment is required to be made, and the amount of any 1123  
infrastructure costs incurred in that calendar year. For 1124  
purposes of such computation, the amount of infrastructure costs 1125  
shall not exceed thirty-five per cent of the amount of those 1126  
taxes unless the board of education of the school district, by 1127  
resolution adopted by a majority of the board, approves an 1128  
amount in excess of that percentage. If the amount of those 1129  
taxes or infrastructure costs must be estimated at the time the 1130

payment is made, payments in subsequent years shall be adjusted 1131  
to compensate for any departure of those estimates from the 1132  
actual amount of those taxes. 1133

A municipal corporation required to make a payment under 1134  
this section shall make the payment from its general fund or a 1135  
special fund established for the purpose. The payment is payable 1136  
on the thirty-first day of December of the tax year for or in 1137  
which the exemption from taxation commences and on that day for 1138  
each subsequent tax year property is exempted and the 1139  
legislative authority and board fail to negotiate an acceptable 1140  
agreement under division (C) of this section. 1141

(E) (1) The director of development shall adjust, in 1142  
September of each year, the payroll threshold described in 1143  
division (C) (2) of this section applicable to the exercise of 1144  
authority under section 3735.67 or 3735.671 of the Revised Code 1145  
by completing the following computations: 1146

(a) Determine the percentage increase in the gross 1147  
domestic product deflator determined by the bureau of economic 1148  
analysis of the United States department of commerce from the 1149  
first day of January of the preceding calendar year to the last 1150  
day of December of the preceding calendar year; 1151

(b) Multiply that percentage increase by the threshold 1152  
applicable for the current year; 1153

(c) Add the resulting product to the threshold applicable 1154  
for the current year; 1155

(d) Round the resulting sum to the nearest one thousand 1156  
dollars. 1157

(2) The director shall certify the amount of the 1158  
adjustment under division (E) (1) of this section to each 1159

legislative authority of a municipal corporation and housing 1160  
officer designated by a municipal corporation exercising 1161  
authority under section 3735.67 or 3735.671 of the Revised Code 1162  
not later than the first day of December of the year the 1163  
director computes the adjustment. The certified amount applies 1164  
to the ensuing calendar year and each calendar year thereafter 1165  
until the director makes a new adjustment. The director shall 1166  
not calculate a new adjustment in any year in which the 1167  
resulting threshold amount from the adjustment would be less 1168  
than the threshold for the current year. 1169

**Sec. 5709.85.** (A) The legislative authority of a county, 1170  
township, or municipal corporation that grants an exemption from 1171  
taxation under Chapter 725. or 1728. or under section 3735.67, 1172  
5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 1173  
5709.73, or 5709.78 of the Revised Code shall create a tax 1174  
incentive review council. The council shall consist of the 1175  
following members: 1176

(1) In the case of a municipal corporation eligible to 1177  
designate a zone under section 5709.62 or 5709.632 of the 1178  
Revised Code, the chief executive officer or that officer's 1179  
designee; a member of the legislative authority of the municipal 1180  
corporation, appointed by the president of the legislative 1181  
authority or, if the chief executive officer of the municipal 1182  
corporation is the president, appointed by the president pro 1183  
tempore of the legislative authority; the county auditor or the 1184  
county auditor's designee; the chief financial officer of the 1185  
municipal corporation or that officer's designee; an individual 1186  
appointed by the board of education of each city, local, 1187  
exempted village, and joint vocational school district to which 1188  
the instrument granting the exemption applies; and two members 1189  
of the public appointed by the chief executive officer of the 1190



municipal corporation with the concurrence of the legislative 1191  
authority. At least four members of the council shall be 1192  
residents of the municipal corporation, and at least one of the 1193  
two public members appointed by the chief executive officer 1194  
shall be a minority. As used in division (A)(1) of this section, 1195  
a "minority" is an individual who is African-American, Hispanic, 1196  
or Native American. 1197

(2) In the case of a county or a municipal corporation 1198  
that is not eligible to designate a zone under section 5709.62 1199  
or 5709.632 of the Revised Code, three members appointed by the 1200  
board of county commissioners; two members from each municipal 1201  
corporation to which the instrument granting the tax exemption 1202  
applies, appointed by the chief executive officer with the 1203  
concurrence of the legislative authority of the respective 1204  
municipal corporations; two members of each township to which 1205  
the instrument or agreement granting the tax exemption applies, 1206  
appointed by the board of township trustees of the respective 1207  
townships; the county auditor or the county auditor's designee; 1208  
and an individual appointed by the board of education of each 1209  
city, local, exempted village, and joint vocational school 1210  
district to which the instrument or agreement granting the tax 1211  
exemption applies. At least two members of the council shall be 1212  
residents of the municipal corporations or townships to which 1213  
the instrument or agreement granting the tax exemption applies. 1214

(3) In the case of a township ~~in which improvements are~~ 1215  
~~declared a public purpose under section 5709.73 of the Revised~~ 1216  
~~Code,~~ the board of township trustees; the county auditor or the 1217  
county auditor's designee; and an individual appointed by the 1218  
board of education of each city, local, exempted village, and 1219  
joint vocational school district to which the instrument or 1220  
agreement granting the exemption applies. 1221

(B) The county auditor or the county auditor's designee 1222  
shall serve as the chairperson of the council. The council shall 1223  
meet at the call of the chairperson. At the first meeting of the 1224  
council, the council shall select a vice-chairperson. Attendance 1225  
by a majority of the members of the council constitutes a quorum 1226  
to conduct the business of the council. 1227

(C) (1) Annually, the tax incentive review council shall 1228  
review all agreements granting exemptions from property taxation 1229  
under Chapter 725. or 1728. or under section 3735.671, 5709.28, 1230  
5709.62, 5709.63, or 5709.632 of the Revised Code, and any 1231  
performance or audit reports required to be submitted pursuant 1232  
to those agreements. The review shall include agreements 1233  
granting such exemptions that were entered into prior to July 1234  
22, 1994, that continue to be in force and applicable to the 1235  
current year's property taxes. 1236

With respect to each agreement, other than an agreement 1237  
entered into under section 5709.28 of the Revised Code, the 1238  
council shall determine whether the owner of the exempted 1239  
property has complied with the agreement, and may take into 1240  
consideration any fluctuations in the business cycle unique to 1241  
the owner's business. 1242

With respect to an agreement entered into under section 1243  
5709.28 of the Revised Code, the council shall consist of the 1244  
members described in division (A) (2) of this section and shall 1245  
determine whether the agreement complies with the requirements 1246  
of section 5709.28 of the Revised Code and whether a withdrawal, 1247  
removal, or conversion of land from an agricultural security 1248  
area established under Chapter 931. of the Revised Code has 1249  
occurred in a manner that makes the exempted property no longer 1250  
eligible for the exemption. 1251

On the basis of the determinations, on or before the first 1252  
day of September of each year, the council shall submit to the 1253  
legislative authority written recommendations for continuation, 1254  
modification, or cancellation of each agreement. 1255

(2) Annually, the tax incentive review council shall 1256  
review all exemptions from property taxation resulting from the 1257  
declaration of public purpose improvements pursuant to section 1258  
5709.40, 5709.41, 5709.45, 5709.73, or 5709.78 of the Revised 1259  
Code. The review shall include such exemptions that were granted 1260  
prior to July 22, 1994, that continue to be in force and 1261  
applicable to the current year's property taxes. With respect to 1262  
each improvement for which an exemption is granted, the council 1263  
shall determine the increase in the true value of parcels of 1264  
real property on which improvements have been undertaken as a 1265  
result of the exemption; the value of improvements exempted from 1266  
taxation as a result of the exemption; and the number of new 1267  
employees or employees retained on the site of the improvement 1268  
as a result of the exemption. 1269

Upon the request of a tax incentive review council, the 1270  
county auditor, the housing officer appointed pursuant to 1271  
section 3735.66 of the Revised Code, the owner of a new or 1272  
remodeled structure or improvement, and the legislative 1273  
authority of the county, township, or municipal corporation 1274  
granting the exemption shall supply the council with any 1275  
information reasonably necessary for the council to make the 1276  
determinations required under division (C) of this section, 1277  
including returns or reports filed pursuant to sections 5711.02, 1278  
5711.13, and 5727.08 of the Revised Code. 1279

(D) Annually, the tax incentive review council shall 1280  
review the compliance of each recipient of a tax exemption under 1281

Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 1282  
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 1283  
Revised Code with the nondiscriminatory hiring policies 1284  
developed by the county, township, or municipal corporation 1285  
under section 5709.832 of the Revised Code. Upon the request of 1286  
the council, the recipient shall provide the council any 1287  
information necessary to perform its review. On the basis of its 1288  
review, the council may submit to the legislative authority 1289  
written recommendations for enhancing compliance with the 1290  
nondiscriminatory hiring policies. 1291

(E) A legislative authority that receives from a tax 1292  
incentive review council written recommendations under division 1293  
(C) (1) or (D) of this section shall, within sixty days after 1294  
receipt, hold a meeting and vote to accept, reject, or modify 1295  
all or any portion of the recommendations. 1296

(F) A tax incentive review council may request from the 1297  
recipient of a tax exemption under Chapter 725. or 1728. or 1298  
section 3735.67, 5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 1299  
5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code any 1300  
information reasonably necessary for the council to perform its 1301  
review under this section. The request shall be in writing and 1302  
shall be sent to the recipient by certified mail. Within ten 1303  
days after receipt of the request, the recipient shall provide 1304  
to the council the information requested. 1305

**Sec. 5747.01.** Except as otherwise expressly provided or 1306  
clearly appearing from the context, any term used in this 1307  
chapter that is not otherwise defined in this section has the 1308  
same meaning as when used in a comparable context in the laws of 1309  
the United States relating to federal income taxes or if not 1310  
used in a comparable context in those laws, has the same meaning 1311

as in section 5733.40 of the Revised Code. Any reference in this 1312  
chapter to the Internal Revenue Code includes other laws of the 1313  
United States relating to federal income taxes. 1314

As used in this chapter: 1315

(A) "Adjusted gross income" or "Ohio adjusted gross 1316  
income" means federal adjusted gross income, as defined and used 1317  
in the Internal Revenue Code, adjusted as provided in this 1318  
section: 1319

(1) Add interest or dividends on obligations or securities 1320  
of any state or of any political subdivision or authority of any 1321  
state, other than this state and its subdivisions and 1322  
authorities. 1323

(2) Add interest or dividends on obligations of any 1324  
authority, commission, instrumentality, territory, or possession 1325  
of the United States to the extent that the interest or 1326  
dividends are exempt from federal income taxes but not from 1327  
state income taxes. 1328

(3) Deduct interest or dividends on obligations of the 1329  
United States and its territories and possessions or of any 1330  
authority, commission, or instrumentality of the United States 1331  
to the extent that the interest or dividends are included in 1332  
federal adjusted gross income but exempt from state income taxes 1333  
under the laws of the United States. 1334

(4) Deduct disability and survivor's benefits to the 1335  
extent included in federal adjusted gross income. 1336

(5) Deduct benefits under Title II of the Social Security 1337  
Act and tier 1 railroad retirement benefits to the extent 1338  
included in federal adjusted gross income under section 86 of 1339  
the Internal Revenue Code. 1340

(6) Deduct the amount of wages and salaries, if any, not 1341  
otherwise allowable as a deduction but that would have been 1342  
allowable as a deduction in computing federal adjusted gross 1343  
income for the taxable year, had the targeted jobs credit 1344  
allowed and determined under sections 38, 51, and 52 of the 1345  
Internal Revenue Code not been in effect. 1346

(7) Deduct any interest or interest equivalent on public 1347  
obligations and purchase obligations to the extent that the 1348  
interest or interest equivalent is included in federal adjusted 1349  
gross income. 1350

(8) Add any loss or deduct any gain resulting from the 1351  
sale, exchange, or other disposition of public obligations to 1352  
the extent that the loss has been deducted or the gain has been 1353  
included in computing federal adjusted gross income. 1354

(9) Deduct or add amounts, as provided under section 1355  
5747.70 of the Revised Code, related to contributions made to 1356  
~~variable college savings program accounts made~~ or tuition units 1357  
~~purchased pursuant to Chapter 3334. of the Revised Code~~ under a 1358  
qualified tuition program established pursuant to section 529 of 1359  
the Internal Revenue Code. 1360

(10) (a) Deduct, to the extent not otherwise allowable as a 1361  
deduction or exclusion in computing federal or Ohio adjusted 1362  
gross income for the taxable year, the amount the taxpayer paid 1363  
during the taxable year for medical care insurance and qualified 1364  
long-term care insurance for the taxpayer, the taxpayer's 1365  
spouse, and dependents. No deduction for medical care insurance 1366  
under division (A) (10) (a) of this section shall be allowed 1367  
either to any taxpayer who is eligible to participate in any 1368  
subsidized health plan maintained by any employer of the 1369  
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 1370

entitled to, or on application would be entitled to, benefits 1371  
under part A of Title XVIII of the "Social Security Act," 49 1372  
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 1373  
division (A)(10)(a) of this section, "subsidized health plan" 1374  
means a health plan for which the employer pays any portion of 1375  
the plan's cost. The deduction allowed under division (A)(10)(a) 1376  
of this section shall be the net of any related premium refunds, 1377  
related premium reimbursements, or related insurance premium 1378  
dividends received during the taxable year. 1379

(b) Deduct, to the extent not otherwise deducted or 1380  
excluded in computing federal or Ohio adjusted gross income 1381  
during the taxable year, the amount the taxpayer paid during the 1382  
taxable year, not compensated for by any insurance or otherwise, 1383  
for medical care of the taxpayer, the taxpayer's spouse, and 1384  
dependents, to the extent the expenses exceed seven and one-half 1385  
per cent of the taxpayer's federal adjusted gross income. 1386

(c) For purposes of division (A)(10) of this section, 1387  
"medical care" has the meaning given in section 213 of the 1388  
Internal Revenue Code, subject to the special rules, 1389  
limitations, and exclusions set forth therein, and "qualified 1390  
long-term care" has the same meaning given in section 7702B(c) 1391  
of the Internal Revenue Code. Solely for purposes of division 1392  
(A)(10)(a) of this section, "dependent" includes a person who 1393  
otherwise would be a "qualifying relative" and thus a 1394  
"dependent" under section 152 of the Internal Revenue Code but 1395  
for the fact that the person fails to meet the income and 1396  
support limitations under section 152(d)(1)(B) and (C) of the 1397  
Internal Revenue Code. 1398

(11)(a) Deduct any amount included in federal adjusted 1399  
gross income solely because the amount represents a 1400

reimbursement or refund of expenses that in any year the 1401  
taxpayer had deducted as an itemized deduction pursuant to 1402  
section 63 of the Internal Revenue Code and applicable United 1403  
States department of the treasury regulations. The deduction 1404  
otherwise allowed under division (A) (11) (a) of this section 1405  
shall be reduced to the extent the reimbursement is attributable 1406  
to an amount the taxpayer deducted under this section in any 1407  
taxable year. 1408

(b) Add any amount not otherwise included in Ohio adjusted 1409  
gross income for any taxable year to the extent that the amount 1410  
is attributable to the recovery during the taxable year of any 1411  
amount deducted or excluded in computing federal or Ohio 1412  
adjusted gross income in any taxable year. 1413

(12) Deduct any portion of the deduction described in 1414  
section 1341(a) (2) of the Internal Revenue Code, for repaying 1415  
previously reported income received under a claim of right, that 1416  
meets both of the following requirements: 1417

(a) It is allowable for repayment of an item that was 1418  
included in the taxpayer's adjusted gross income for a prior 1419  
taxable year and did not qualify for a credit under division (A) 1420  
or (B) of section 5747.05 of the Revised Code for that year; 1421

(b) It does not otherwise reduce the taxpayer's adjusted 1422  
gross income for the current or any other taxable year. 1423

(13) Deduct an amount equal to the deposits made to, and 1424  
net investment earnings of, a medical savings account during the 1425  
taxable year, in accordance with section 3924.66 of the Revised 1426  
Code. The deduction allowed by division (A) (13) of this section 1427  
does not apply to medical savings account deposits and earnings 1428  
otherwise deducted or excluded for the current or any other 1429



|  |      |
|--|------|
| taxable year from the taxpayer's federal adjusted gross income.  | 1430 |
| (14) (a) Add an amount equal to the funds withdrawn from a       | 1431 |
| medical savings account during the taxable year, and the net     | 1432 |
| investment earnings on those funds, when the funds withdrawn     | 1433 |
| were used for any purpose other than to reimburse an account     | 1434 |
| holder for, or to pay, eligible medical expenses, in accordance  | 1435 |
| with section 3924.66 of the Revised Code;                        | 1436 |
| (b) Add the amounts distributed from a medical savings           | 1437 |
| account under division (A) (2) of section 3924.68 of the Revised | 1438 |
| Code during the taxable year.                                    | 1439 |
| (15) Add any amount claimed as a credit under section            | 1440 |
| 5747.059 of the Revised Code to the extent that such amount      | 1441 |
| satisfies either of the following:                               | 1442 |
| (a) The amount was deducted or excluded from the                 | 1443 |
| computation of the taxpayer's federal adjusted gross income as   | 1444 |
| required to be reported for the taxpayer's taxable year under    | 1445 |
| the Internal Revenue Code;                                       | 1446 |
| (b) The amount resulted in a reduction of the taxpayer's         | 1447 |
| federal adjusted gross income as required to be reported for any | 1448 |
| of the taxpayer's taxable years under the Internal Revenue Code. | 1449 |
| (16) Deduct the amount contributed by the taxpayer to an         | 1450 |
| individual development account program established by a county   | 1451 |
| department of job and family services pursuant to sections       | 1452 |
| 329.11 to 329.14 of the Revised Code for the purpose of matching | 1453 |
| funds deposited by program participants. On request of the tax   | 1454 |
| commissioner, the taxpayer shall provide any information that,   | 1455 |
| in the tax commissioner's opinion, is necessary to establish the | 1456 |
| amount deducted under division (A) (16) of this section.         | 1457 |
| (17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and  | 1458 |

(v) of this section, add five-sixths of the amount of 1459  
depreciation expense allowed by subsection (k) of section 168 of 1460  
the Internal Revenue Code, including the taxpayer's 1461  
proportionate or distributive share of the amount of 1462  
depreciation expense allowed by that subsection to a pass- 1463  
through entity in which the taxpayer has a direct or indirect 1464  
ownership interest. 1465

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 1466  
of this section, add five-sixths of the amount of qualifying 1467  
section 179 depreciation expense, including the taxpayer's 1468  
proportionate or distributive share of the amount of qualifying 1469  
section 179 depreciation expense allowed to any pass-through 1470  
entity in which the taxpayer has a direct or indirect ownership 1471  
interest. 1472

(iii) Subject to division (A) (17) (a) (v) of this section, 1473  
for taxable years beginning in 2012 or thereafter, if the 1474  
increase in income taxes withheld by the taxpayer is equal to or 1475  
greater than ten per cent of income taxes withheld by the 1476  
taxpayer during the taxpayer's immediately preceding taxable 1477  
year, "two-thirds" shall be substituted for "five-sixths" for 1478  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1479

(iv) Subject to division (A) (17) (a) (v) of this section, 1480  
for taxable years beginning in 2012 or thereafter, a taxpayer is 1481  
not required to add an amount under division (A) (17) of this 1482  
section if the increase in income taxes withheld by the taxpayer 1483  
and by any pass-through entity in which the taxpayer has a 1484  
direct or indirect ownership interest is equal to or greater 1485  
than the sum of (I) the amount of qualifying section 179 1486  
depreciation expense and (II) the amount of depreciation expense 1487  
allowed to the taxpayer by subsection (k) of section 168 of the 1488

Internal Revenue Code, and including the taxpayer's 1489  
proportionate or distributive shares of such amounts allowed to 1490  
any such pass-through entities. 1491

(v) If a taxpayer directly or indirectly incurs a net 1492  
operating loss for the taxable year for federal income tax 1493  
purposes, to the extent such loss resulted from depreciation 1494  
expense allowed by subsection (k) of section 168 of the Internal 1495  
Revenue Code and by qualifying section 179 depreciation expense, 1496  
"the entire" shall be substituted for "five-sixths of the" for 1497  
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1498

The tax commissioner, under procedures established by the 1499  
commissioner, may waive the add-backs related to a pass-through 1500  
entity if the taxpayer owns, directly or indirectly, less than 1501  
five per cent of the pass-through entity. 1502

(b) Nothing in division (A) (17) of this section shall be 1503  
construed to adjust or modify the adjusted basis of any asset. 1504

(c) To the extent the add-back required under division (A) 1505  
(17) (a) of this section is attributable to property generating 1506  
nonbusiness income or loss allocated under section 5747.20 of 1507  
the Revised Code, the add-back shall be situated to the same 1508  
location as the nonbusiness income or loss generated by the 1509  
property for the purpose of determining the credit under 1510  
division (A) of section 5747.05 of the Revised Code. Otherwise, 1511  
the add-back shall be apportioned, subject to one or more of the 1512  
four alternative methods of apportionment enumerated in section 1513  
5747.21 of the Revised Code. 1514

(d) For the purposes of division (A) (17) (a) (v) of this 1515  
section, net operating loss carryback and carryforward shall not 1516  
include the allowance of any net operating loss deduction 1517

carryback or carryforward to the taxable year to the extent such 1518  
loss resulted from depreciation allowed by section 168(k) of the 1519  
Internal Revenue Code and by the qualifying section 179 1520  
depreciation expense amount. 1521

(e) For the purposes of divisions (A) (17) and (18) of this 1522  
section: 1523

(i) "Income taxes withheld" means the total amount 1524  
withheld and remitted under sections 5747.06 and 5747.07 of the 1525  
Revised Code by an employer during the employer's taxable year. 1526

(ii) "Increase in income taxes withheld" means the amount 1527  
by which the amount of income taxes withheld by an employer 1528  
during the employer's current taxable year exceeds the amount of 1529  
income taxes withheld by that employer during the employer's 1530  
immediately preceding taxable year. 1531

(iii) "Qualifying section 179 depreciation expense" means 1532  
the difference between (I) the amount of depreciation expense 1533  
directly or indirectly allowed to a taxpayer under section 179 1534  
of the Internal Revised Code, and (II) the amount of 1535  
depreciation expense directly or indirectly allowed to the 1536  
taxpayer under section 179 of the Internal Revenue Code as that 1537  
section existed on December 31, 2002. 1538

(18) (a) If the taxpayer was required to add an amount 1539  
under division (A) (17) (a) of this section for a taxable year, 1540  
deduct one of the following: 1541

(i) One-fifth of the amount so added for each of the five 1542  
succeeding taxable years if the amount so added was five-sixths 1543  
of qualifying section 179 depreciation expense or depreciation 1544  
expense allowed by subsection (k) of section 168 of the Internal 1545  
Revenue Code; 1546

(ii) One-half of the amount so added for each of the two 1547  
succeeding taxable years if the amount so added was two-thirds 1548  
of such depreciation expense; 1549

(iii) One-sixth of the amount so added for each of the six 1550  
succeeding taxable years if the entire amount of such 1551  
depreciation expense was so added. 1552

(b) If the amount deducted under division (A) (18) (a) of 1553  
this section is attributable to an add-back allocated under 1554  
division (A) (17) (c) of this section, the amount deducted shall 1555  
be situated to the same location. Otherwise, the add-back shall 1556  
be apportioned using the apportionment factors for the taxable 1557  
year in which the deduction is taken, subject to one or more of 1558  
the four alternative methods of apportionment enumerated in 1559  
section 5747.21 of the Revised Code. 1560

(c) No deduction is available under division (A) (18) (a) of 1561  
this section with regard to any depreciation allowed by section 1562  
168(k) of the Internal Revenue Code and by the qualifying 1563  
section 179 depreciation expense amount to the extent that such 1564  
depreciation results in or increases a federal net operating 1565  
loss carryback or carryforward. If no such deduction is 1566  
available for a taxable year, the taxpayer may carry forward the 1567  
amount not deducted in such taxable year to the next taxable 1568  
year and add that amount to any deduction otherwise available 1569  
under division (A) (18) (a) of this section for that next taxable 1570  
year. The carryforward of amounts not so deducted shall continue 1571  
until the entire addition required by division (A) (17) (a) of 1572  
this section has been deducted. 1573

(19) Deduct, to the extent not otherwise deducted or 1574  
excluded in computing federal or Ohio adjusted gross income for 1575  
the taxable year, the amount the taxpayer received during the 1576

taxable year as reimbursement for life insurance premiums under 1577  
section 5919.31 of the Revised Code. 1578

(20) Deduct, to the extent not otherwise deducted or 1579  
excluded in computing federal or Ohio adjusted gross income for 1580  
the taxable year, the amount the taxpayer received during the 1581  
taxable year as a death benefit paid by the adjutant general 1582  
under section 5919.33 of the Revised Code. 1583

(21) Deduct, to the extent included in federal adjusted 1584  
gross income and not otherwise allowable as a deduction or 1585  
exclusion in computing federal or Ohio adjusted gross income for 1586  
the taxable year, military pay and allowances received by the 1587  
taxpayer during the taxable year for active duty service in the 1588  
United States army, air force, navy, marine corps, or coast 1589  
guard or reserve components thereof or the national guard. The 1590  
deduction may not be claimed for military pay and allowances 1591  
received by the taxpayer while the taxpayer is stationed in this 1592  
state. 1593

(22) Deduct, to the extent not otherwise allowable as a 1594  
deduction or exclusion in computing federal or Ohio adjusted 1595  
gross income for the taxable year and not otherwise compensated 1596  
for by any other source, the amount of qualified organ donation 1597  
expenses incurred by the taxpayer during the taxable year, not 1598  
to exceed ten thousand dollars. A taxpayer may deduct qualified 1599  
organ donation expenses only once for all taxable years 1600  
beginning with taxable years beginning in 2007. 1601

For the purposes of division (A) (22) of this section: 1602

(a) "Human organ" means all or any portion of a human 1603  
liver, pancreas, kidney, intestine, or lung, and any portion of 1604  
human bone marrow. 1605

(b) "Qualified organ donation expenses" means travel 1606  
expenses, lodging expenses, and wages and salary forgone by a 1607  
taxpayer in connection with the taxpayer's donation, while 1608  
living, of one or more of the taxpayer's human organs to another 1609  
human being. 1610

(23) Deduct, to the extent not otherwise deducted or 1611  
excluded in computing federal or Ohio adjusted gross income for 1612  
the taxable year, amounts received by the taxpayer as retired 1613  
personnel pay for service in the uniformed services or reserve 1614  
components thereof, or the national guard, or received by the 1615  
surviving spouse or former spouse of such a taxpayer under the 1616  
survivor benefit plan on account of such a taxpayer's death. If 1617  
the taxpayer receives income on account of retirement paid under 1618  
the federal civil service retirement system or federal employees 1619  
retirement system, or under any successor retirement program 1620  
enacted by the congress of the United States that is established 1621  
and maintained for retired employees of the United States 1622  
government, and such retirement income is based, in whole or in 1623  
part, on credit for the taxpayer's uniformed service, the 1624  
deduction allowed under this division shall include only that 1625  
portion of such retirement income that is attributable to the 1626  
taxpayer's uniformed service, to the extent that portion of such 1627  
retirement income is otherwise included in federal adjusted 1628  
gross income and is not otherwise deducted under this section. 1629  
Any amount deducted under division (A) (23) of this section is 1630  
not included in a taxpayer's adjusted gross income for the 1631  
purposes of section 5747.055 of the Revised Code. No amount may 1632  
be deducted under division (A) (23) of this section on the basis 1633  
of which a credit was claimed under section 5747.055 of the 1634  
Revised Code. 1635

(24) Deduct, to the extent not otherwise deducted or 1636

excluded in computing federal or Ohio adjusted gross income for 1637  
the taxable year, the amount the taxpayer received during the 1638  
taxable year from the military injury relief fund created in 1639  
section 5902.05 of the Revised Code. 1640

(25) Deduct, to the extent not otherwise deducted or 1641  
excluded in computing federal or Ohio adjusted gross income for 1642  
the taxable year, the amount the taxpayer received as a veterans 1643  
bonus during the taxable year from the Ohio department of 1644  
veterans services as authorized by Section 2r of Article VIII, 1645  
Ohio Constitution. 1646

(26) Deduct, to the extent not otherwise deducted or 1647  
excluded in computing federal or Ohio adjusted gross income for 1648  
the taxable year, any income derived from a transfer agreement 1649  
or from the enterprise transferred under that agreement under 1650  
section 4313.02 of the Revised Code. 1651

(27) Deduct, to the extent not otherwise deducted or 1652  
excluded in computing federal or Ohio adjusted gross income for 1653  
the taxable year, Ohio college opportunity or federal Pell grant 1654  
amounts received by the taxpayer or the taxpayer's spouse or 1655  
dependent pursuant to section 3333.122 of the Revised Code or 20 1656  
U.S.C. 1070a, et seq., and used to pay room or board furnished 1657  
by the educational institution for which the grant was awarded 1658  
at the institution's facilities, including meal plans 1659  
administered by the institution. For the purposes of this 1660  
division, receipt of a grant includes the distribution of a 1661  
grant directly to an educational institution and the crediting 1662  
of the grant to the enrollee's account with the institution. 1663

(28) Deduct from the portion of an individual's federal 1664  
adjusted gross income that is business income, to the extent not 1665  
otherwise deducted or excluded in computing federal adjusted 1666



gross income for the taxable year, one hundred twenty-five 1667  
thousand dollars for each spouse if spouses file separate 1668  
returns under section 5747.08 of the Revised Code or two hundred 1669  
fifty thousand dollars for all other individuals. 1670

(29) Deduct, as provided under section 5747.78 of the 1671  
Revised Code, contributions to ABLE savings accounts made in 1672  
accordance with sections 113.50 to 113.56 of the Revised Code. 1673

(30) (a) Deduct, to the extent not otherwise deducted or 1674  
excluded in computing federal or Ohio adjusted gross income 1675  
during the taxable year, all of the following: 1676

(i) Compensation paid to a qualifying employee described 1677  
in division (A) (14) (a) of section 5703.94 of the Revised Code to 1678  
the extent such compensation is for disaster work conducted in 1679  
this state during a disaster response period pursuant to a 1680  
qualifying solicitation received by the employee's employer; 1681

(ii) Compensation paid to a qualifying employee described 1682  
in division (A) (14) (b) of section 5703.94 of the Revised Code to 1683  
the extent such compensation is for disaster work conducted in 1684  
this state by the employee during the disaster response period 1685  
on critical infrastructure owned or used by the employee's 1686  
employer; 1687

(iii) Income received by an out-of-state disaster business 1688  
for disaster work conducted in this state during a disaster 1689  
response period, or, if the out-of-state disaster business is a 1690  
pass-through entity, a taxpayer's distributive share of the 1691  
pass-through entity's income from the business conducting 1692  
disaster work in this state during a disaster response period, 1693  
if, in either case, the disaster work is conducted pursuant to a 1694  
qualifying solicitation received by the business. 1695

(b) All terms used in division (A) (30) of this section 1696  
have the same meanings as in section 5703.94 of the Revised 1697  
Code. 1698

(31) For a taxpayer who is a qualifying Ohio educator, 1699  
deduct, to the extent not otherwise deducted or excluded in 1700  
computing federal or Ohio adjusted gross income for the taxable 1701  
year, the lesser of two hundred fifty dollars or the amount of 1702  
expenses described in subsections (a) (2) (D) (i) and (ii) of 1703  
section 62 of the Internal Revenue Code paid or incurred by the 1704  
taxpayer during the taxpayer's taxable year in excess of the 1705  
amount the taxpayer is authorized to deduct for that taxable 1706  
year under subsection (a) (2) (D) of that section. 1707

~~(34)~~ (32) Deduct, to the extent not otherwise deducted or 1708  
excluded in computing federal or Ohio adjusted gross income for 1709  
the taxable year, amounts received by the taxpayer as a 1710  
disability severance payment, computed under 10 U.S.C. 1212, 1711  
following discharge or release under honorable conditions from 1712  
the armed forces, as defined by 10 U.S.C. 101. 1713

(B) "Business income" means income, including gain or 1714  
loss, arising from transactions, activities, and sources in the 1715  
regular course of a trade or business and includes income, gain, 1716  
or loss from real property, tangible property, and intangible 1717  
property if the acquisition, rental, management, and disposition 1718  
of the property constitute integral parts of the regular course 1719  
of a trade or business operation. "Business income" includes 1720  
income, including gain or loss, from a partial or complete 1721  
liquidation of a business, including, but not limited to, gain 1722  
or loss from the sale or other disposition of goodwill. 1723

(C) "Nonbusiness income" means all income other than 1724  
business income and may include, but is not limited to, 1725

compensation, rents and royalties from real or tangible personal 1726  
property, capital gains, interest, dividends and distributions, 1727  
patent or copyright royalties, or lottery winnings, prizes, and 1728  
awards. 1729

(D) "Compensation" means any form of remuneration paid to 1730  
an employee for personal services. 1731

(E) "Fiduciary" means a guardian, trustee, executor, 1732  
administrator, receiver, conservator, or any other person acting 1733  
in any fiduciary capacity for any individual, trust, or estate. 1734

(F) "Fiscal year" means an accounting period of twelve 1735  
months ending on the last day of any month other than December. 1736

(G) "Individual" means any natural person. 1737

(H) "Internal Revenue Code" means the "Internal Revenue 1738  
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1739

(I) "Resident" means any of the following: 1740

(1) An individual who is domiciled in this state, subject 1741  
to section 5747.24 of the Revised Code; 1742

(2) The estate of a decedent who at the time of death was 1743  
domiciled in this state. The domicile tests of section 5747.24 1744  
of the Revised Code are not controlling for purposes of division 1745  
(I) (2) of this section. 1746

(3) A trust that, in whole or part, resides in this state. 1747  
If only part of a trust resides in this state, the trust is a 1748  
resident only with respect to that part. 1749

For the purposes of division (I) (3) of this section: 1750

(a) A trust resides in this state for the trust's current 1751  
taxable year to the extent, as described in division (I) (3) (d) 1752

of this section, that the trust consists directly or indirectly, 1753  
in whole or in part, of assets, net of any related liabilities, 1754  
that were transferred, or caused to be transferred, directly or 1755  
indirectly, to the trust by any of the following: 1756

(i) A person, a court, or a governmental entity or 1757  
instrumentality on account of the death of a decedent, but only 1758  
if the trust is described in division (I) (3) (e) (i) or (ii) of 1759  
this section; 1760

(ii) A person who was domiciled in this state for the 1761  
purposes of this chapter when the person directly or indirectly 1762  
transferred assets to an irrevocable trust, but only if at least 1763  
one of the trust's qualifying beneficiaries is domiciled in this 1764  
state for the purposes of this chapter during all or some 1765  
portion of the trust's current taxable year; 1766

(iii) A person who was domiciled in this state for the 1767  
purposes of this chapter when the trust document or instrument 1768  
or part of the trust document or instrument became irrevocable, 1769  
but only if at least one of the trust's qualifying beneficiaries 1770  
is a resident domiciled in this state for the purposes of this 1771  
chapter during all or some portion of the trust's current 1772  
taxable year. If a trust document or instrument became 1773  
irrevocable upon the death of a person who at the time of death 1774  
was domiciled in this state for purposes of this chapter, that 1775  
person is a person described in division (I) (3) (a) (iii) of this 1776  
section. 1777

(b) A trust is irrevocable to the extent that the 1778  
transferor is not considered to be the owner of the net assets 1779  
of the trust under sections 671 to 678 of the Internal Revenue 1780  
Code. 1781

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

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

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

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the

qualifying ratio last computed without regard to the subsequent 1812  
transfer, and (2) the fair market value of the subsequently 1813  
transferred assets at the time transferred, net of any related 1814  
liabilities, from sources enumerated in division (I) (3) (a) of 1815  
this section. The denominator of the revised qualifying ratio is 1816  
the fair market value of all the trust's assets immediately 1817  
after the subsequent transfer, net of any related liabilities. 1818

(iii) Whether a transfer to the trust is by or from any of 1819  
the sources enumerated in division (I) (3) (a) of this section 1820  
shall be ascertained without regard to the domicile of the 1821  
trust's beneficiaries. 1822

(e) For the purposes of division (I) (3) (a) (i) of this 1823  
section: 1824

(i) A trust is described in division (I) (3) (e) (i) of this 1825  
section if the trust is a testamentary trust and the testator of 1826  
that testamentary trust was domiciled in this state at the time 1827  
of the testator's death for purposes of the taxes levied under 1828  
Chapter 5731. of the Revised Code. 1829

(ii) A trust is described in division (I) (3) (e) (ii) of 1830  
this section if the transfer is a qualifying transfer described 1831  
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1832  
trust is an irrevocable inter vivos trust, and at least one of 1833  
the trust's qualifying beneficiaries is domiciled in this state 1834  
for purposes of this chapter during all or some portion of the 1835  
trust's current taxable year. 1836

(f) For the purposes of division (I) (3) (e) (ii) of this 1837  
section, a "qualifying transfer" is a transfer of assets, net of 1838  
any related liabilities, directly or indirectly to a trust, if 1839  
the transfer is described in any of the following: 1840

(i) The transfer is made to a trust, created by the 1841  
decedent before the decedent's death and while the decedent was 1842  
domiciled in this state for the purposes of this chapter, and, 1843  
prior to the death of the decedent, the trust became irrevocable 1844  
while the decedent was domiciled in this state for the purposes 1845  
of this chapter. 1846

(ii) The transfer is made to a trust to which the 1847  
decedent, prior to the decedent's death, had directly or 1848  
indirectly transferred assets, net of any related liabilities, 1849  
while the decedent was domiciled in this state for the purposes 1850  
of this chapter, and prior to the death of the decedent the 1851  
trust became irrevocable while the decedent was domiciled in 1852  
this state for the purposes of this chapter. 1853

(iii) The transfer is made on account of a contractual 1854  
relationship existing directly or indirectly between the 1855  
transferor and either the decedent or the estate of the decedent 1856  
at any time prior to the date of the decedent's death, and the 1857  
decedent was domiciled in this state at the time of death for 1858  
purposes of the taxes levied under Chapter 5731. of the Revised 1859  
Code. 1860

(iv) The transfer is made to a trust on account of a 1861  
contractual relationship existing directly or indirectly between 1862  
the transferor and another person who at the time of the 1863  
decedent's death was domiciled in this state for purposes of 1864  
this chapter. 1865

(v) The transfer is made to a trust on account of the will 1866  
of a testator who was domiciled in this state at the time of the 1867  
testator's death for purposes of the taxes levied under Chapter 1868  
5731. of the Revised Code. 1869

(vi) The transfer is made to a trust created by or caused 1870  
to be created by a court, and the trust was directly or 1871  
indirectly created in connection with or as a result of the 1872  
death of an individual who, for purposes of the taxes levied 1873  
under Chapter 5731. of the Revised Code, was domiciled in this 1874  
state at the time of the individual's death. 1875

(g) The tax commissioner may adopt rules to ascertain the 1876  
part of a trust residing in this state. 1877

(J) "Nonresident" means an individual or estate that is 1878  
not a resident. An individual who is a resident for only part of 1879  
a taxable year is a nonresident for the remainder of that 1880  
taxable year. 1881

(K) "Pass-through entity" has the same meaning as in 1882  
section 5733.04 of the Revised Code. 1883

(L) "Return" means the notifications and reports required 1884  
to be filed pursuant to this chapter for the purpose of 1885  
reporting the tax due and includes declarations of estimated tax 1886  
when so required. 1887

(M) "Taxable year" means the calendar year or the 1888  
taxpayer's fiscal year ending during the calendar year, or 1889  
fractional part thereof, upon which the adjusted gross income is 1890  
calculated pursuant to this chapter. 1891

(N) "Taxpayer" means any person subject to the tax imposed 1892  
by section 5747.02 of the Revised Code or any pass-through 1893  
entity that makes the election under division (D) of section 1894  
5747.08 of the Revised Code. 1895

(O) "Dependents" means one of the following: 1896

(1) For taxable years beginning on or after January 1, 1897



2018, and before January 1, 2026, dependents as defined in the 1898  
Internal Revenue Code; 1899

(2) For all other taxable years, dependents as defined in 1900  
the Internal Revenue Code and as claimed in the taxpayer's 1901  
federal income tax return for the taxable year or which the 1902  
taxpayer would have been permitted to claim had the taxpayer 1903  
filed a federal income tax return. 1904

(P) "Principal county of employment" means, in the case of 1905  
a nonresident, the county within the state in which a taxpayer 1906  
performs services for an employer or, if those services are 1907  
performed in more than one county, the county in which the major 1908  
portion of the services are performed. 1909

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1910  
Code: 1911

(1) "Subdivision" means any county, municipal corporation, 1912  
park district, or township. 1913

(2) "Essential local government purposes" includes all 1914  
functions that any subdivision is required by general law to 1915  
exercise, including like functions that are exercised under a 1916  
charter adopted pursuant to the Ohio Constitution. 1917

(R) "Overpayment" means any amount already paid that 1918  
exceeds the figure determined to be the correct amount of the 1919  
tax. 1920

(S) "Taxable income" or "Ohio taxable income" applies only 1921  
to estates and trusts, and means federal taxable income, as 1922  
defined and used in the Internal Revenue Code, adjusted as 1923  
follows: 1924

(1) Add interest or dividends, net of ordinary, necessary, 1925

and reasonable expenses not deducted in computing federal 1926  
taxable income, on obligations or securities of any state or of 1927  
any political subdivision or authority of any state, other than 1928  
this state and its subdivisions and authorities, but only to the 1929  
extent that such net amount is not otherwise includible in Ohio 1930  
taxable income and is described in either division (S) (1) (a) or 1931  
(b) of this section: 1932

(a) The net amount is not attributable to the S portion of 1933  
an electing small business trust and has not been distributed to 1934  
beneficiaries for the taxable year; 1935

(b) The net amount is attributable to the S portion of an 1936  
electing small business trust for the taxable year. 1937

(2) Add interest or dividends, net of ordinary, necessary, 1938  
and reasonable expenses not deducted in computing federal 1939  
taxable income, on obligations of any authority, commission, 1940  
instrumentality, territory, or possession of the United States 1941  
to the extent that the interest or dividends are exempt from 1942  
federal income taxes but not from state income taxes, but only 1943  
to the extent that such net amount is not otherwise includible 1944  
in Ohio taxable income and is described in either division (S) 1945  
(1) (a) or (b) of this section; 1946

(3) Add the amount of personal exemption allowed to the 1947  
estate pursuant to section 642(b) of the Internal Revenue Code; 1948

(4) Deduct interest or dividends, net of related expenses 1949  
deducted in computing federal taxable income, on obligations of 1950  
the United States and its territories and possessions or of any 1951  
authority, commission, or instrumentality of the United States 1952  
to the extent that the interest or dividends are exempt from 1953  
state taxes under the laws of the United States, but only to the 1954

extent that such amount is included in federal taxable income 1955  
and is described in either division (S) (1) (a) or (b) of this 1956  
section; 1957

(5) Deduct the amount of wages and salaries, if any, not 1958  
otherwise allowable as a deduction but that would have been 1959  
allowable as a deduction in computing federal taxable income for 1960  
the taxable year, had the targeted jobs credit allowed under 1961  
sections 38, 51, and 52 of the Internal Revenue Code not been in 1962  
effect, but only to the extent such amount relates either to 1963  
income included in federal taxable income for the taxable year 1964  
or to income of the S portion of an electing small business 1965  
trust for the taxable year; 1966

(6) Deduct any interest or interest equivalent, net of 1967  
related expenses deducted in computing federal taxable income, 1968  
on public obligations and purchase obligations, but only to the 1969  
extent that such net amount relates either to income included in 1970  
federal taxable income for the taxable year or to income of the 1971  
S portion of an electing small business trust for the taxable 1972  
year; 1973

(7) Add any loss or deduct any gain resulting from sale, 1974  
exchange, or other disposition of public obligations to the 1975  
extent that such loss has been deducted or such gain has been 1976  
included in computing either federal taxable income or income of 1977  
the S portion of an electing small business trust for the 1978  
taxable year; 1979

(8) Except in the case of the final return of an estate, 1980  
add any amount deducted by the taxpayer on both its Ohio estate 1981  
tax return pursuant to section 5731.14 of the Revised Code, and 1982  
on its federal income tax return in determining federal taxable 1983  
income; 1984

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

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

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

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

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

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount

satisfies either of the following: 2014

(a) The amount was deducted or excluded from the 2015  
computation of the taxpayer's federal taxable income as required 2016  
to be reported for the taxpayer's taxable year under the 2017  
Internal Revenue Code; 2018

(b) The amount resulted in a reduction in the taxpayer's 2019  
federal taxable income as required to be reported for any of the 2020  
taxpayer's taxable years under the Internal Revenue Code. 2021

(12) Deduct any amount, net of related expenses deducted 2022  
in computing federal taxable income, that a trust is required to 2023  
report as farm income on its federal income tax return, but only 2024  
if the assets of the trust include at least ten acres of land 2025  
satisfying the definition of "land devoted exclusively to 2026  
agricultural use" under section 5713.30 of the Revised Code, 2027  
regardless of whether the land is valued for tax purposes as 2028  
such land under sections 5713.30 to 5713.38 of the Revised Code. 2029  
If the trust is a pass-through entity investor, section 5747.231 2030  
of the Revised Code applies in ascertaining if the trust is 2031  
eligible to claim the deduction provided by division (S)(12) of 2032  
this section in connection with the pass-through entity's farm 2033  
income. 2034

Except for farm income attributable to the S portion of an 2035  
electing small business trust, the deduction provided by 2036  
division (S)(12) of this section is allowed only to the extent 2037  
that the trust has not distributed such farm income. 2038

(13) Add the net amount of income described in section 2039  
641(c) of the Internal Revenue Code to the extent that amount is 2040  
not included in federal taxable income. 2041

(14) Add or deduct the amount the taxpayer would be 2042

required to add or deduct under division (A) (17) or (18) of this 2043  
section if the taxpayer's Ohio taxable income were computed in 2044  
the same manner as an individual's Ohio adjusted gross income is 2045  
computed under this section. 2046

(T) "School district income" and "school district income 2047  
tax" have the same meanings as in section 5748.01 of the Revised 2048  
Code. 2049

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 2050  
(7) of this section, "public obligations," "purchase 2051  
obligations," and "interest or interest equivalent" have the 2052  
same meanings as in section 5709.76 of the Revised Code. 2053

(V) "Limited liability company" means any limited 2054  
liability company formed under Chapter 1705. or 1706. of the 2055  
Revised Code or under the laws of any other state. 2056

(W) "Pass-through entity investor" means any person who, 2057  
during any portion of a taxable year of a pass-through entity, 2058  
is a partner, member, shareholder, or equity investor in that 2059  
pass-through entity. 2060

(X) "Banking day" has the same meaning as in section 2061  
1304.01 of the Revised Code. 2062

(Y) "Month" means a calendar month. 2063

(Z) "Quarter" means the first three months, the second 2064  
three months, the third three months, or the last three months 2065  
of the taxpayer's taxable year. 2066

(AA) (1) "Modified business income" means the business 2067  
income included in a trust's Ohio taxable income after such 2068  
taxable income is first reduced by the qualifying trust amount, 2069  
if any. 2070

(2) "Qualifying trust amount" of a trust means capital 2071  
gains and losses from the sale, exchange, or other disposition 2072  
of equity or ownership interests in, or debt obligations of, a 2073  
qualifying investee to the extent included in the trust's Ohio 2074  
taxable income, but only if the following requirements are 2075  
satisfied: 2076

(a) The book value of the qualifying investee's physical 2077  
assets in this state and everywhere, as of the last day of the 2078  
qualifying investee's fiscal or calendar year ending immediately 2079  
prior to the date on which the trust recognizes the gain or 2080  
loss, is available to the trust. 2081

(b) The requirements of section 5747.011 of the Revised 2082  
Code are satisfied for the trust's taxable year in which the 2083  
trust recognizes the gain or loss. 2084

Any gain or loss that is not a qualifying trust amount is 2085  
modified business income, qualifying investment income, or 2086  
modified nonbusiness income, as the case may be. 2087

(3) "Modified nonbusiness income" means a trust's Ohio 2088  
taxable income other than modified business income, other than 2089  
the qualifying trust amount, and other than qualifying 2090  
investment income, as defined in section 5747.012 of the Revised 2091  
Code, to the extent such qualifying investment income is not 2092  
otherwise part of modified business income. 2093

(4) "Modified Ohio taxable income" applies only to trusts, 2094  
and means the sum of the amounts described in divisions (AA) (4) 2095  
(a) to (c) of this section: 2096

(a) The fraction, calculated under section 5747.013, and 2097  
applying section 5747.231 of the Revised Code, multiplied by the 2098  
sum of the following amounts: 2099

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| (i) The trust's modified business income;                          | 2100 |
| (ii) The trust's qualifying investment income, as defined          | 2101 |
| in section 5747.012 of the Revised Code, but only to the extent    | 2102 |
| the qualifying investment income does not otherwise constitute     | 2103 |
| modified business income and does not otherwise constitute a       | 2104 |
| qualifying trust amount.   | 2105 |
| (b) The qualifying trust amount multiplied by a fraction,          | 2106 |
| the numerator of which is the sum of the book value of the         | 2107 |
| qualifying investee's physical assets in this state on the last    | 2108 |
| day of the qualifying investee's fiscal or calendar year ending    | 2109 |
| immediately prior to the day on which the trust recognizes the     | 2110 |
| qualifying trust amount, and the denominator of which is the sum   | 2111 |
| of the book value of the qualifying investee's total physical      | 2112 |
| assets everywhere on the last day of the qualifying investee's     | 2113 |
| fiscal or calendar year ending immediately prior to the day on     | 2114 |
| which the trust recognizes the qualifying trust amount. If, for    | 2115 |
| a taxable year, the trust recognizes a qualifying trust amount     | 2116 |
| with respect to more than one qualifying investee, the amount      | 2117 |
| described in division (AA) (4) (b) of this section shall equal the | 2118 |
| sum of the products so computed for each such qualifying           | 2119 |
| investee.  | 2120 |
| (c) (i) With respect to a trust or portion of a trust that         | 2121 |
| is a resident as ascertained in accordance with division (I) (3)   | 2122 |
| (d) of this section, its modified nonbusiness income.              | 2123 |
| (ii) With respect to a trust or portion of a trust that is         | 2124 |
| not a resident as ascertained in accordance with division (I) (3)  | 2125 |
| (d) of this section, the amount of its modified nonbusiness        | 2126 |
| income satisfying the descriptions in divisions (B) (2) to (5) of  | 2127 |
| section 5747.20 of the Revised Code, except as otherwise           | 2128 |
| provided in division (AA) (4) (c) (ii) of this section. With       | 2129 |



respect to a trust or portion of a trust that is not a resident 2130  
as ascertained in accordance with division (I) (3) (d) of this 2131  
section, the trust's portion of modified nonbusiness income 2132  
recognized from the sale, exchange, or other disposition of a 2133  
debt interest in or equity interest in a section 5747.212 2134  
entity, as defined in section 5747.212 of the Revised Code, 2135  
without regard to division (A) of that section, shall not be 2136  
allocated to this state in accordance with section 5747.20 of 2137  
the Revised Code but shall be apportioned to this state in 2138  
accordance with division (B) of section 5747.212 of the Revised 2139  
Code without regard to division (A) of that section. 2140

If the allocation and apportionment of a trust's income 2141  
under divisions (AA) (4) (a) and (c) of this section do not fairly 2142  
represent the modified Ohio taxable income of the trust in this 2143  
state, the alternative methods described in division (C) of 2144  
section 5747.21 of the Revised Code may be applied in the manner 2145  
and to the same extent provided in that section. 2146

(5) (a) Except as set forth in division (AA) (5) (b) of this 2147  
section, "qualifying investee" means a person in which a trust 2148  
has an equity or ownership interest, or a person or unit of 2149  
government the debt obligations of either of which are owned by 2150  
a trust. For the purposes of division (AA) (2) (a) of this section 2151  
and for the purpose of computing the fraction described in 2152  
division (AA) (4) (b) of this section, all of the following apply: 2153

(i) If the qualifying investee is a member of a qualifying 2154  
controlled group on the last day of the qualifying investee's 2155  
fiscal or calendar year ending immediately prior to the date on 2156  
which the trust recognizes the gain or loss, then "qualifying 2157  
investee" includes all persons in the qualifying controlled 2158  
group on such last day. 2159

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

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

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity

directly and indirectly owns less than fifty per cent of the 2191  
equity of the lower level pass-through entity on each day of the 2192  
upper level pass-through entity's calendar or fiscal year in 2193  
which or with which ends the calendar or fiscal year of the 2194  
lower level pass-through entity and if, based upon clear and 2195  
convincing evidence, complete information about the location and 2196  
cost of the physical assets of the lower pass-through entity is 2197  
not available to the upper level pass-through entity, then 2198  
solely for purposes of ascertaining if a gain or loss 2199  
constitutes a qualifying trust amount, the upper level pass- 2200  
through entity shall be deemed as owning no equity of the lower 2201  
level pass-through entity for each day during the upper level 2202  
pass-through entity's calendar or fiscal year in which or with 2203  
which ends the lower level pass-through entity's calendar or 2204  
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 2205  
shall be construed to provide for any deduction or exclusion in 2206  
computing any trust's Ohio taxable income. 2207

(b) With respect to a trust that is not a resident for the 2208  
taxable year and with respect to a part of a trust that is not a 2209  
resident for the taxable year, "qualifying investee" for that 2210  
taxable year does not include a C corporation if both of the 2211  
following apply: 2212

(i) During the taxable year the trust or part of the trust 2213  
recognizes a gain or loss from the sale, exchange, or other 2214  
disposition of equity or ownership interests in, or debt 2215  
obligations of, the C corporation. 2216

(ii) Such gain or loss constitutes nonbusiness income. 2217

(6) "Available" means information is such that a person is 2218  
able to learn of the information by the due date plus 2219  
extensions, if any, for filing the return for the taxable year 2220

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| in which the trust recognizes the gain or loss.                  | 2221 |
| (BB) "Qualifying controlled group" has the same meaning as       | 2222 |
| in section 5733.04 of the Revised Code.                          | 2223 |
| (CC) "Related member" has the same meaning as in section         | 2224 |
| 5733.042 of the Revised Code.                                    | 2225 |
| (DD) (1) For the purposes of division (DD) of this section:      | 2226 |
| (a) "Qualifying person" means any person other than a            | 2227 |
| qualifying corporation.  | 2228 |
| (b) "Qualifying corporation" means any person classified         | 2229 |
| for federal income tax purposes as an association taxable as a   | 2230 |
| corporation, except either of the following:                     | 2231 |
| (i) A corporation that has made an election under                | 2232 |
| subchapter S, chapter one, subtitle A, of the Internal Revenue   | 2233 |
| Code for its taxable year ending within, or on the last day of,  | 2234 |
| the investor's taxable year;                                     | 2235 |
| (ii) A subsidiary that is wholly owned by any corporation        | 2236 |
| that has made an election under subchapter S, chapter one,       | 2237 |
| subtitle A of the Internal Revenue Code for its taxable year     | 2238 |
| ending within, or on the last day of, the investor's taxable     | 2239 |
| year.  | 2240 |
| (2) For the purposes of this chapter, unless expressly           | 2241 |
| stated otherwise, no qualifying person indirectly owns any asset | 2242 |
| directly or indirectly owned by any qualifying corporation.      | 2243 |
| (EE) For purposes of this chapter and Chapter 5751. of the       | 2244 |
| Revised Code:  | 2245 |
| (1) "Trust" does not include a qualified pre-income tax          | 2246 |
| trust.   | 2247 |

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

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

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

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

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

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

(FF) "Uniformed services" has the same meaning as in 10 U.S.C. 101.

(GG) "Taxable business income" means the amount by which an individual's business income that is included in federal adjusted gross income exceeds the amount of business income the individual is authorized to deduct under division ~~(A)(31)~~ (A)(28) of this section for the taxable year.

(HH) "Employer" does not include a franchisor with respect 2277  
to the franchisor's relationship with a franchisee or an 2278  
employee of a franchisee, unless the franchisor agrees to assume 2279  
that role in writing or a court of competent jurisdiction 2280  
determines that the franchisor exercises a type or degree of 2281  
control over the franchisee or the franchisee's employees that 2282  
is not customarily exercised by a franchisor for the purpose of 2283  
protecting the franchisor's trademark, brand, or both. For 2284  
purposes of this division, "franchisor" and "franchisee" have 2285  
the same meanings as in 16 C.F.R. 436.1. 2286

(II) "Modified adjusted gross income" means Ohio adjusted 2287  
gross income plus any amount deducted under division (A) (28) of 2288  
this section for the taxable year. 2289

(JJ) "Qualifying Ohio educator" means an individual who, 2290  
for a taxable year, qualifies as an eligible educator, as that 2291  
term is defined in section 62 of the Internal Revenue Code, and 2292  
who holds a certificate, license, or permit described in Chapter 2293  
3319. or section 3301.071 of the Revised Code. 2294

**Sec. 5747.10.** (A) As used in this section: 2295

(1) "Audited partnership" means a partnership subject to 2296  
an examination by the internal revenue service pursuant to 2297  
subchapter C, chapter 63, subtitle F of the Internal Revenue 2298  
Code resulting in a federal adjustment. 2299

(2) (a) "Direct investor" means a partner or other investor 2300  
that holds a direct interest in a pass-through entity. 2301

(b) "Indirect investor" means a partner or other investor 2302  
that holds an interest in a pass-through entity that itself 2303  
holds an interest, directly or through another indirect partner 2304  
or other investor, in a pass-through entity. 2305

(3) "Exempt partner" means a partner that is neither a  
pass-through entity nor a person subject to the tax imposed by  
section 5747.02 of the Revised Code.

(4) "Federal adjustment" means a change to an item or  
amount required to be determined under the Internal Revenue Code  
that directly or indirectly affects a taxpayer's aggregate tax  
liability under section 5747.02 or Chapter 5748. of the Revised  
Code and that results from an action or examination by the  
internal revenue service, or from the filing of an amended  
federal tax return, a claim for a federal tax refund, or an  
administrative adjustment request filed by a partnership under  
section 6227 of the Internal Revenue Code.

(5) "Federal adjustments return" means the form or other  
document prescribed by the tax commissioner for use by a  
taxpayer in reporting final federal adjustments.

(6) "State partnership representative" means either of the  
following:

(a) The person who served as the partnership's  
representative for federal income tax purposes, pursuant to  
section 6223(a) of the Internal Revenue Code, during the  
corresponding federal partnership audit;

(b) The person designated, on a form prescribed by the tax  
commissioner, to serve as the partnership's representative  
during the state partnership audit. The commissioner may  
establish reasonable qualifications and procedures for a person  
to be designated as a state partnership representative under  
this division.

(7) A federal adjustment is "final" or "agreed to or  
finally determined for federal income tax purposes" on any of

the following: 2335

(a) The day after which the period for appeal of a federal 2336  
assessment has expired; 2337

(b) The date on a refund check issued by the internal 2338  
revenue service; or 2339

(c) For agreements required to be signed by the internal 2340  
revenue service and the taxpayer or audited partnership, the 2341  
date on which the last party signed the agreement. 2342

(B) (1) If any of the facts, figures, computations, or 2343  
attachments required in a taxpayer's annual return to determine 2344  
the tax charged by this chapter or Chapter 5748. of the Revised 2345  
Code must be altered as the result of a final federal 2346  
adjustment, and the federal adjustment is not required to be 2347  
reported under division (C) of this section, the taxpayer shall 2348  
file an amended return with the tax commissioner in such form as 2349  
the commissioner requires. The amended return shall be filed not 2350  
later than ninety days after the federal adjustment has been 2351  
agreed to or finally determined for federal income tax purposes. 2352

(2) "One hundred eighty" shall be substituted for "ninety" 2353  
in divisions (B) (1) and (E) (1) of this section if, for any 2354  
taxable year, the final federal adjustment results from taxes 2355  
paid by the taxpayer on an amount described in division ~~(A) (34)~~ 2356  
(A) (32) of section 5747.01 of the Revised Code. 2357

(C) Except for adjustments required to be reported for 2358  
federal purposes pursuant to section 6225(a) (2) of the Internal 2359  
Revenue Code and adjustments that are taken into account on a 2360  
federal amended return or similar report filed pursuant to 2361  
section 6225(c) (2) of the Internal Revenue Code, partnerships 2362  
and partners shall report final federal adjustments and make 2363



payments as required under division (C) of this section. 2364

(1) With respect to an action required or permitted to be 2365  
taken by a partnership under this section, and any petition for 2366  
reassessment or appeal to the board of tax appeals or any court 2367  
with respect to such an action, the state partnership 2368  
representative shall have the sole authority to act on behalf of 2369  
the audited partnership, and the partnership's direct and 2370  
indirect investors shall be bound by those actions. 2371

(2) Unless an audited partnership makes the election under 2372  
division (C) (3) of this section: 2373

(a) The audited partnership, through its state partnership 2374  
representative, shall do all of the following within ninety days 2375  
after the federal adjustment is final: 2376

(i) File a federal adjustments return with the tax 2377  
commissioner, including a copy of the notifications provided 2378  
under division (C) (2) (a) (ii) of this section; 2379

(ii) Notify each of its direct investors, on a form 2380  
prescribed by the commissioner, of the investor's distributive 2381  
share of the final federal adjustments; 2382

(iii) File an amended tax return on behalf of its 2383  
nonresident direct investors and pay any additional tax that 2384  
would have been due under sections 5733.41 and 5747.41, or 2385  
division (D) of section 5747.08, of the Revised Code with 2386  
respect to those direct investors had the final federal 2387  
adjustments been reported properly on the original filing. 2388

(b) Each direct investor that is subject to the tax 2389  
imposed by section 5747.02 of the Revised Code shall file an 2390  
original or amended tax return to include the investor's 2391  
distributive share of the adjustments reported to the direct 2392

investor under division (C) (2) (a) of this section, and pay any 2393  
additional tax due, within ninety days after the audited 2394  
partnership files its federal adjustments return with the 2395  
commissioner. 2396

(c) (i) Each direct and indirect investor of an audited 2397  
partnership that is a pass-through entity and all investors in 2398  
such a pass-through entity that are subject to the filing and 2399  
payment requirements of Chapters 5733. and 5747. of the Revised 2400  
Code are subject to the reporting and payment requirements of 2401  
division (C) (2) or, upon a timely election, division (C) (3) of 2402  
this section. 2403

(ii) Such direct and indirect investors shall make the 2404  
required returns and payments within ninety days after the 2405  
deadline for filing and furnishing statements under section 2406  
6226(b) (4) of the Internal Revenue Code and applicable treasury 2407  
regulations. 2408

(3) If an audited partnership makes the election under 2409  
this division, the audited partnership, through its state 2410  
partnership representative, shall do all of the following within 2411  
ninety days after all federal adjustments are final: 2412

(a) File a federal adjustments return with the tax 2413  
commissioner indicating the partnership has made the election 2414  
under division (C) (3) of this section; 2415

(b) Pay the amount of combined additional tax due under 2416  
division (D) (2) of this section, calculated by multiplying the 2417  
highest rate of tax set forth in section 5747.02 of the Revised 2418  
Code by the sum of the following: 2419

(i) The distributive shares of the final federal 2420  
adjustments that are allocable or apportionable to this state of 2421

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| each investor who is a nonresident taxpayer or pass-through        | 2422 |
| entity;  | 2423 |
| (ii) The distributive share of the final federal                   | 2424 |
| adjustments for each investor who is a resident taxpayer.          | 2425 |
| (c) Notify each of its direct investors, on a form                 | 2426 |
| prescribed by the commissioner, of the investor's distributive     | 2427 |
| share of the final federal adjustments and the amount paid on      | 2428 |
| their behalf pursuant to division (C) (3) (b) of this section.     | 2429 |
| (4) (a) A direct investor of an audited partnership is not         | 2430 |
| required to file an amended return or pay tax otherwise due        | 2431 |
| under section 5747.02 of the Revised Code if the audited           | 2432 |
| partnership properly reports and pays the tax under division (C)   | 2433 |
| (3) of this section.   | 2434 |
| (b) (i) Nothing in division (C) of this section precludes a        | 2435 |
| direct or indirect investor in the audited partnership from        | 2436 |
| filing a return to report the investor's share of the final        | 2437 |
| federal adjustments. Such an investor who files a return and       | 2438 |
| reports the income related to the final federal adjustments is     | 2439 |
| entitled to a refundable credit for taxes paid by the audited      | 2440 |
| partnership under division (C) (3) (b) of this section. The credit | 2441 |
| shall be computed and claimed in the same manner as the credit     | 2442 |
| allowed under division (I) of section 5747.08 of the Revised       | 2443 |
| Code.  | 2444 |
| (ii) Notwithstanding division (C) (4) (b) (i) of this              | 2445 |
| section, an exempt partner, whether a direct or indirect           | 2446 |
| investor, may file an application for refund of its                | 2447 |
| proportionate share of the amounts erroneously paid by the         | 2448 |
| audited partnership pursuant to division (C) (3) (b) of this       | 2449 |
| section on the exempt partner's behalf.                            | 2450 |

(5) Upon request by an audited partnership, the tax commissioner may agree, in writing, to allow an alternative method of reporting and payment than required by ~~divisions~~ division (C) (2) or (3) of this section. The request must be submitted to the commissioner in writing before the applicable deadline for filing a return under division (C) (2) (a) or (3) of this section. The commissioner's decision on whether to enter into an agreement under this division is not subject to further administrative review or appeal.

(6) Nothing in division (C) of this section precludes either of the following:

(a) A resident taxpayer from filing a return to claim the credit under division (B) of section 5747.05 or division (D) (2) of section 5747.02 of the Revised Code based upon any amounts paid by the audited partnership on such investor's behalf to another state.

(b) The tax commissioner from issuing an assessment under this chapter against any direct or indirect investor for taxes due from the investor if an audited partnership, or direct and indirect investor of an audited partnership that is a pass-through entity, fails to timely file any return or remit any payment required by this section or underreports income or underpays tax on behalf of an indirect investor who is a resident taxpayer.

(D) In the case of an underpayment, and unless otherwise agreed to in writing by the tax commissioner:

(1) The taxpayer's amended return shall be accompanied by payment of any combined additional tax due together with interest thereon. An amended return required by this section is

a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the final federal adjustment to the taxpayer's federal income tax return.

(2) The audited partnership's federal adjustments return shall be accompanied by payment of any combined additional tax due together with interest thereon. The federal adjustments return required by this section is a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the final federal adjustment.

(3) The tax commissioner may accept estimated payments of the tax arising from pending federal adjustments before the date for filing a federal adjustments return. The commissioner may adopt rules for the payment of such estimated taxes.

(E) In the case of an overpayment, and unless otherwise agreed to in writing by the tax commissioner:

(1) A taxpayer may file an application for refund under this division within the ninety-day period prescribed for filing the amended return even if it is filed beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An

application filed under this division shall claim refund of 2510  
overpayments resulting from alterations to only those facts, 2511  
figures, computations, or attachments required in the taxpayer's 2512  
annual return that are affected, either directly or indirectly, 2513  
by the final federal adjustment to the taxpayer's federal income 2514  
tax return unless it is also filed within the time prescribed in 2515  
section 5747.11 of the Revised Code. It shall not reopen those 2516  
facts, figures, computations, or attachments that are not 2517  
affected, either directly or indirectly, by the adjustment to 2518  
the taxpayer's federal income tax return. 2519

(2) (a) Except as otherwise provided in division (E) (2) (b) 2520  
of this section, an audited partnership may file an application 2521  
for a refund under this division within the ninety-day period 2522  
prescribed for filing the federal adjustments return, even if it 2523  
is filed beyond the period prescribed by section 5747.11 of the 2524  
Revised Code, if it otherwise conforms to the requirements of 2525  
that section. An application filed under this division may claim 2526  
a refund of overpayments resulting only from final federal 2527  
adjustments unless it is also filed within the time prescribed 2528  
by section 5747.11 of the Revised Code. It shall not reopen 2529  
those facts, figures, computations, or attachments that are not 2530  
affected, either directly or indirectly, by the federal 2531  
adjustment. 2532

(b) An audited partnership may not file an application for 2533  
refund under division (E) of this section based on final federal 2534  
adjustments described in section 6225(a) (2) of the Internal 2535  
Revenue Code. 2536

(3) Any refund granted to a pass-through entity filing an 2537  
application for refund under division (E) of this section shall 2538  
be reduced by amounts previously claimed as a credit under 2539

section 5747.059 or division (I) of section 5747.08 of the Revised Code by the pass-through entity's direct or indirect investors. 2540  
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(F) Excluding the deadline in division (C)(2)(c)(ii) of this section, an audited partnership, or a direct or indirect investor of an audited partnership that is a pass-through entity, may automatically extend the deadline for reporting, payments, and refunds under this section by sixty days if the entity has ten thousand or more direct investors and notifies the commissioner of such extension, in writing, before the unextended deadline. 2543  
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**Sec. 5747.70.** (A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year ~~taxpayer who contributes to a variable college savings program account and to a purchaser of or purchases~~ tuition units under the Ohio college savings program created by Chapter 3334. of the Revised Code a qualified tuition program established in accordance with section 529 of the Internal Revenue Code. The amount of the deduction shall equal the amount contributed or purchased during the taxable year to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to four thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed four thousand dollars, the excess may be 2551  
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carried forward and deducted in future taxable years until the 2571  
contributions and purchases have been fully deducted. 2572

(B) In computing Ohio adjusted gross income, a deduction 2573  
from federal adjusted gross income is allowed for: 2574

(1) Income related to tuition units and contributions that 2575  
as of the end of the taxable year have not been refunded 2576  
pursuant to the termination of a qualified tuition program 2577  
payment contract or ~~variable college savings program~~ account 2578  
~~under section 3334.10 of the Revised Code,~~ to the extent that 2579  
such income is included in federal adjusted gross income. 2580

(2) The excess of the total purchase price of tuition 2581  
units refunded during the taxable year pursuant to the 2582  
termination of a qualified tuition program payment contract 2583  
~~under section 3334.10 of the Revised Code~~ over the amount of the 2584  
refund, to the extent the amount of the excess was not deducted 2585  
in determining federal adjusted gross income. Division (B) (2) of 2586  
this section applies only to units for which no deduction was 2587  
allowable under division (A) of this section. 2588

(C) In computing Ohio adjusted gross income, there shall 2589  
be added to federal adjusted gross income the amount of loss 2590  
related to tuition units and contributions that as of the end of 2591  
the taxable year have not been refunded pursuant to the 2592  
termination of a qualified tuition program payment contract or 2593  
~~variable college savings program~~ account ~~under section 3334.10~~ 2594  
~~of the Revised Code,~~ to the extent that such loss was deducted 2595  
in determining federal adjusted gross income. 2596

(D) For taxable years in which distributions or refunds 2597  
are made under a qualified tuition ~~payment or variable college~~ 2598  
~~savings program~~ ~~contract~~ program for any reason other than 2599



payment of higher education expenses, or the beneficiary's 2600  
death, disability, or receipt of a scholarship as described in 2601  
section 3334.10 of the Revised Code: 2602

(1) If the distribution or refund is paid to the purchaser 2603  
or contributor or beneficiary, any portion of the distribution 2604  
or refund not included in the recipient's federal adjusted gross 2605  
income shall be added to the recipient's federal adjusted gross 2606  
income in determining the recipient's Ohio adjusted gross 2607  
income, except that the amount added shall not exceed amounts 2608  
previously deducted under division (A) of this section less any 2609  
amounts added under division (D) (1) of this section in a prior 2610  
taxable year. 2611

(2) If amounts paid by a purchaser or contributor on or 2612  
after January 1, 2000, are distributed or refunded to someone 2613  
other than the purchaser or contributor or beneficiary, the 2614  
amount of the payment not included in the recipient's federal 2615  
adjusted gross income, less any amounts added under division (D) 2616  
of this section in a prior taxable year, shall be added to the 2617  
recipient's federal adjusted gross income in determining the 2618  
recipient's Ohio adjusted gross income. 2619

**Section 2.** That existing sections 3735.65, 3735.66, 2620  
3735.671, 3735.672, 3735.673, 3735.68, 3735.69, 5709.631, 2621  
5709.82, 5709.85, 5747.01, 5747.10, and 5747.70 of the Revised 2622  
Code are hereby repealed. 2623

**Section 3.** The amendment by this act of section 5747.70 of 2624  
the Revised Code applies to taxable years beginning on or after 2625  
January 1, 2023. 2626

Nothing in this act limits the ability of a taxpayer whose 2627  
combined contributions to an Ohio variable college savings 2628

program account and purchases of tuition units under the Ohio 2629  
college savings program for a beneficiary exceeded four thousand 2630  
dollars in a taxable year beginning before January 1, 2023, from 2631  
carrying forward and deducting the excess in taxable years 2632  
beginning on or after January 1, 2023. 2633

**Section 4.** Section 5747.01 of the Revised Code is 2634  
presented in this act as a composite of the section as amended 2635  
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 2636  
General Assembly. The General Assembly, applying the principle 2637  
stated in division (B) of section 1.52 of the Revised Code that 2638  
amendments are to be harmonized if reasonably capable of 2639  
simultaneous operation, finds that the composite is the 2640  
resulting version of the section in effect prior to the 2641  
effective date of the section as presented in this act. 2642

**Section 5.** Pursuant to division (G) of section 5703.95 of 2643  
the Revised Code, which states that any bill introduced in the 2644  
House of Representatives or the Senate that proposes to enact or 2645  
modify one or more tax expenditures should include a statement 2646  
explaining the objectives of the tax expenditure or its 2647  
modification and the sponsor's intent in proposing the tax 2648  
expenditure or its modification: 2649

The objective of this act is to provide the same tax 2650  
benefit to all families saving for college in Ohio. Currently, 2651  
only families investing in Ohio's 529 college savings plan 2652  
receive the \$4,000 deduction against their taxable income. The 2653  
underlying goal is to encourage all Ohio taxpayers to invest in 2654  
a 529 college savings account to plan for the cost of going to 2655  
college. This act extends the same tax benefit to all Ohio 2656  
families paying state income taxes regardless of whether they 2657  
invest in Ohio's plan or another state's plan that may be a 2658

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| better option for their family needs. This act also provides     | 2659 |
| competition for Ohio's college savings plan to ensure families   | 2660 |
| investing in Ohio's plan obtain the highest possible return on   | 2661 |
| their investment at the lowest possible cost associated with the | 2662 |
| plan.  | 2663 |