

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 45**

**Senators Peterson, Kunze**

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**A BILL**

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

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

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

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

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

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

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

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

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

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

"Ohio employee payroll" excludes any such compensation to 44  
the extent it is used to determine the credit under section 45  
122.171 of the Revised Code, and excludes amounts paid before 46  
the day the taxpayer becomes eligible for the credit under this 47  
section. 48

(4) "Excess payroll" means Ohio employee payroll minus 49  
baseline payroll. 50

(5) "Home-based employee" means an employee whose services 51  
are performed primarily from the employee's residence in this 52  
state exclusively for the benefit of the project and whose rate 53  
of pay is at least one hundred thirty-one per cent of the 54  
federal minimum wage under 29 U.S.C. 206. 55

(6) "Full-time equivalent employees" means the quotient 56  
obtained by dividing the total number of hours for which 57  
employees were compensated for employment in the project by two 58  
thousand eighty. "Full-time equivalent employees" excludes hours 59  
that are counted for a credit under section 122.171 of the 60  
Revised Code. 61

(7) "Metric evaluation date" means the date by which the 62  
taxpayer must meet all of the commitments included in the 63  
agreement. 64

(8) "Qualifying work-from-home employee" means an employee 65  
who is a resident of this state and whose services are 66  
supervised from the employer's project location and performed 67  
primarily from a residence of the employee located in this 68  
state. 69

(9) "Resident" or "resident of this state" means an 70  
individual who is a resident as defined in section 5747.01 of 71  
the Revised Code. 72

(10) "Megaproject" means a project in this state that 73  
meets all of the following requirements: 74

(a) The project requires unique sites, extremely robust 75  
utility service, and a technically skilled workforce; 76

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

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

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

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

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

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

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

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

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

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

payroll. 105

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

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

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

An application shall not propose to include both home- 130  
based employees and employees who are not home-based employees 131  
in the computation of Ohio employee payroll for the purposes of 132  
the same tax credit agreement, except that a qualifying work- 133  
from-home employee shall not be considered to be a home-based 134

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

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

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

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

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

(2) (a) A taxpayer that chooses to begin the project prior 153  
to receiving the determination of the authority may, upon 154  
submitting the taxpayer's application to the authority, request 155  
that the chief investment officer of the nonprofit corporation 156  
formed under section 187.01 of the Revised Code and the director 157  
review the taxpayer's application and recommend to the authority 158  
that the taxpayer's application be considered. As soon as 159  
possible after receiving such a request, the chief investment 160  
officer and the director shall review the taxpayer's application 161  
and, if they determine that the application warrants 162  
consideration by the authority, make that recommendation to the 163

authority not later than six months after the application is 164  
received by the authority. 165

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

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

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

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

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

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

(3) A requirement that the taxpayer shall maintain 192

operations at the project location for at least the greater of 193  
seven years or the term of the credit plus three years; 194

(4) The percentage, as determined by the tax credit 195  
authority, of excess payroll that will be allowed as the amount 196  
of the credit for each taxable year or for each calendar year 197  
that includes a tax period; 198

(5) The pay increase factor to be applied to the 199  
taxpayer's baseline payroll; 200

(6) A requirement that the taxpayer annually shall report 201  
to the director of development services full-time equivalent 202  
employees, payroll, Ohio employee payroll, investment, the 203  
provision of health care benefits and tuition reimbursement if 204  
required in the agreement, and other information the director 205  
needs to perform the director's duties under this section; 206

(7) A requirement that the director of development 207  
services annually review the information reported under division 208  
(D) (6) of this section and verify compliance with the agreement; 209  
if the taxpayer is in compliance, a requirement that the 210  
director issue a certificate to the taxpayer stating that the 211  
information has been verified and identifying the amount of the 212  
credit that may be claimed for the taxable or calendar year~~+~~. If 213  
the taxpayer is a megaproject supplier, the director shall issue 214  
such a certificate to the supplier and to any megaproject 215  
operator (a) to which the supplier directly sells tangible 216  
personal property and (b) that is authorized to claim the credit 217  
pursuant to division (D) (10) of this section. 218

(8) A provision providing that the taxpayer may not 219  
relocate a substantial number of employment positions from 220  
elsewhere in this state to the project location unless the 221

director of development services determines that the legislative 222  
authority of the county, township, or municipal corporation from 223  
which the employment positions would be relocated has been 224  
notified by the taxpayer of the relocation. 225

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

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

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

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

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

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

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

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

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

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

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

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

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

state a portion of the credit in accordance with the following: 344

(a) If the taxpayer fails to comply with the requirement 345  
under division (D) (3) of this section, an amount determined in 346  
accordance with the following: 347

(i) If the taxpayer maintained operations at the project 348  
location for a period less than or equal to the term of the 349  
credit, an amount not exceeding one hundred per cent of the sum 350  
of any credits allowed and received under this section; 351

(ii) If the taxpayer maintained operations at the project 352  
location for a period longer than the term of the credit, but 353  
less than the greater of seven years or the term of the credit 354  
plus three years, an amount not exceeding seventy-five per cent 355  
of the sum of any credits allowed and received under this 356  
section. 357

(b) If, on the metric evaluation date, the taxpayer fails 358  
to substantially meet the job creation, payroll, or investment 359  
requirements included in the agreement, an amount determined at 360  
the discretion of the authority; 361

(c) If the taxpayer fails to substantially maintain the 362  
number of new full-time equivalent employees or amount of 363  
payroll required under the agreement at any time during the term 364  
of the agreement after the metric evaluation date, an amount 365  
determined at the discretion of the authority. 366

(2) If a taxpayer files for bankruptcy and fails as 367  
described in division (K) (1) (a), (b), or (c) of this section, 368  
the director may immediately commence an action to recoup an 369  
amount not exceeding one hundred per cent of the sum of any 370  
credits received by the taxpayer under this section. 371

(3) In determining the portion of the tax credit to be 372

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

adjustment factor by the taxpayer's income tax revenue and doing 494  
one of the following: 495

(a) If the income tax rates prescribed by section 5747.02 496  
of the Revised Code have decreased by amendment of that section 497  
taking effect on or after June 29, 2013, add the product to the 498  
taxpayer's income tax revenue. 499

(b) If the income tax rates prescribed by section 5747.02 500  
of the Revised Code have increased by amendment of that section 501  
taking effect on or after June 29, 2013, subtract the product 502  
from the taxpayer's income tax revenue. 503

(4) Division (S) (3) of this section shall not apply unless 504  
all of the following apply for the reporting period with respect 505  
to the eligible agreement: 506

(a) The taxpayer has achieved one hundred per cent of the 507  
new employment commitment identified in the agreement. 508

(b) If applicable, the taxpayer has achieved one hundred 509  
per cent of the new payroll commitment identified in the 510  
agreement. 511

(c) If applicable, the taxpayer has achieved one hundred 512  
per cent of the investment commitment identified in the 513  
agreement. 514

(5) Failure by a taxpayer to have achieved any of the 515  
applicable commitments described in divisions (S) (4) (a) to (c) 516  
of this section in a reporting period does not disqualify the 517  
taxpayer for the adjustment under division (S) of this section 518  
for an ensuing reporting period. 519

(T) The director of development services shall notify the 520  
tax commissioner if the director determines that a megaproject 521

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

to division (B) of that section. 734

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A description of real property to be exempted from 801  
taxation under the agreement, the percentage of the assessed 802  
valuation of the real property exempted from taxation, and the 803  
period for which the exemption is granted, accompanied by the 804  
statement: "The exemption commences the first year for which the 805  
real property would first be taxable were that property not 806  
exempted from taxation. No exemption shall commence after 807  
\_\_\_\_\_ (insert date) nor extend beyond \_\_\_\_\_ (insert 808  
date)." 809

(2) "\_\_\_\_\_ (insert name of owner) shall pay such real 810  
property taxes as are not exempted under this agreement and are 811  
charged against such property and shall file all tax reports and 812  
returns as required by law. If \_\_\_\_\_ (insert name of owner) 813  
fails to pay such taxes or file such returns and reports, 814  
exemptions from taxation granted under this agreement are 815  
rescinded beginning with the year for which such taxes are 816  
charged or such reports or returns are required to be filed and 817  
thereafter." 818

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

city of a metropolitan statistical area; 971

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

title to or possession of the item sold. 1175

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

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

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

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

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

determined by rule adopted by the tax commissioner. 1204

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

section. 1323

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

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

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

of seventy-five per cent. 1353

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

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

resolution approving the agreement to the legislative authority, 1384  
or, if the board approves the agreement conditionally, at any 1385  
time after the conditions are agreed to by the board and the 1386  
legislative authority. If an agreement is negotiated between the 1387  
legislative authority and the board to compensate the school 1388  
district for all or part of the taxes exempted, the legislative 1389  
authority shall compensate the joint vocational school district 1390  
within which the property is located at the same rate and under 1391  
the same terms received by the city, local, or exempted village 1392  
school district. 1393

If a board of education has adopted a resolution waiving 1394  
its right to approve agreements and the resolution remains in 1395  
effect, approval of an agreement by the board is not required 1396  
under this division. If a board of education has adopted a 1397  
resolution allowing a legislative authority to deliver the 1398  
notice required under this division fewer than forty-five 1399  
business days prior to the legislative authority's approval of 1400  
the agreement, the legislative authority shall deliver the 1401  
notice to the board not later than the number of days prior to 1402  
such approval as prescribed by the board in its resolution. If a 1403  
board of education adopts a resolution waiving its right to 1404  
approve agreements or shortening the notification period, the 1405  
board shall certify a copy of the resolution to the legislative 1406  
authority. If the board of education rescinds such a resolution, 1407  
it shall certify notice of the rescission to the legislative 1408  
authority. 1409

(4) The legislative authority shall comply with section 1410  
5709.83 of the Revised Code unless the board of education has 1411  
adopted a resolution under that section waiving its right to 1412  
receive such notice. 1413

(E) This division applies to zones certified by the 1414  
director of development services under this section prior to 1415  
July 22, 1994. 1416

The legislative authority that designated a zone to which 1417  
this division applies may enter into an agreement with an 1418  
enterprise if the legislative authority finds that the 1419  
enterprise satisfies one of the criteria described in divisions 1420  
(E) (1) to (5) of this section: 1421

(1) The enterprise currently has no operations in this 1422  
state and, subject to approval of the agreement, intends to 1423  
establish operations in the zone; 1424

(2) The enterprise currently has operations in this state 1425  
and, subject to approval of the agreement, intends to establish 1426  
operations at a new location in the zone that would not result 1427  
in a reduction in the number of employee positions at any of the 1428  
enterprise's other locations in this state; 1429

(3) The enterprise, subject to approval of the agreement, 1430  
intends to relocate operations, currently located in another 1431  
state, to the zone; 1432

(4) The enterprise, subject to approval of the agreement, 1433  
intends to expand operations at an existing site in the zone 1434  
that the enterprise currently operates; 1435

(5) The enterprise, subject to approval of the agreement, 1436  
intends to relocate operations, currently located in this state, 1437  
to the zone, and the director of development services has issued 1438  
a waiver for the enterprise under division (B) of section 1439  
5709.633 of the Revised Code. 1440

The agreement shall require the enterprise to agree to 1441  
establish, expand, renovate, or occupy a facility in the zone 1442

and hire new employees, or preserve employment opportunities for 1443  
existing employees, in return for one or more of the incentives 1444  
described in division (C) of this section. 1445

(F) All agreements entered into under this section shall 1446  
be in the form prescribed under section 5709.631 of the Revised 1447  
Code. After an agreement is entered into under this section, if 1448  
the legislative authority revokes its designation of a zone, or 1449  
if the director of development services revokes a zone's 1450  
certification, any entitlements granted under the agreement 1451  
shall continue for the number of years specified in the 1452  
agreement. 1453

(G) Except as otherwise provided in this division, an 1454  
agreement entered into under this section shall require that the 1455  
enterprise pay an annual fee equal to the greater of one per 1456  
cent of the dollar value of incentives offered under the 1457  
agreement or five hundred dollars; provided, however, that if 1458  
the value of the incentives exceeds two hundred fifty thousand 1459  
dollars, the fee shall not exceed two thousand five hundred 1460  
dollars. The fee shall be payable to the legislative authority 1461  
once per year for each year the agreement is effective on the 1462  
days and in the form specified in the agreement. Fees paid shall 1463  
be deposited in a special fund created for such purpose by the 1464  
legislative authority and shall be used by the legislative 1465  
authority exclusively for the purpose of complying with section 1466  
5709.68 of the Revised Code and by the tax incentive review 1467  
council created under section 5709.85 of the Revised Code 1468  
exclusively for the purposes of performing the duties prescribed 1469  
under that section. The legislative authority may waive or 1470  
reduce the amount of the fee charged against an enterprise, but 1471  
such a waiver or reduction does not affect the obligations of 1472  
the legislative authority or the tax incentive review council to 1473

comply with section 5709.68 or 5709.85 of the Revised Code. 1474

(H) When an agreement is entered into pursuant to this 1475  
section, the legislative authority authorizing the agreement 1476  
shall forward a copy of the agreement to the director of 1477  
development services and to the tax commissioner within fifteen 1478  
days after the agreement is entered into. If any agreement 1479  
includes terms not provided for in section 5709.631 of the 1480  
Revised Code affecting the revenue of a city, local, exempted 1481  
village, or joint vocational school district or causing revenue 1482  
to be forgone by the district, including any compensation to be 1483  
paid to the school district pursuant to section 5709.82 of the 1484  
Revised Code, those terms also shall be forwarded in writing to 1485  
the director of development services along with the copy of the 1486  
agreement forwarded under this division. 1487

(I) After an agreement is entered into, the enterprise 1488  
shall file with each personal property tax return required to be 1489  
filed, or annual report required to be filed under section 1490  
5727.08 of the Revised Code, while the agreement is in effect, 1491  
an informational return, on a form prescribed by the tax 1492  
commissioner for that purpose, setting forth separately the 1493  
property, and related costs and values, exempted from taxation 1494  
under the agreement. 1495

(J) Enterprises may agree to give preference to residents 1496  
of the zone within which the agreement applies relative to 1497  
residents of this state who do not reside in the zone when 1498  
hiring new employees under the agreement. 1499

(K) An agreement entered into under this section may 1500  
include a provision requiring the enterprise to create one or 1501  
more temporary internship positions for students enrolled in a 1502  
course of study at a school or other educational institution in 1503

the vicinity, and to create a scholarship or provide another 1504  
form of educational financial assistance for students holding 1505  
such a position in exchange for the student's commitment to work 1506  
for the enterprise at the completion of the internship. 1507

(L) The tax commissioner's authority in determining the 1508  
accuracy of any exemption granted by an agreement entered into 1509  
under this section is limited to divisions (C) (1) (a) and (b), 1510  
(C) (2) (a), (b), and (c), (C) (3) and (4), (D), and (I) of this 1511  
section and divisions (B) (1) to (10) of section 5709.631 of the 1512  
Revised Code and, as authorized by law, to enforcing any 1513  
modification to, or revocation of, that agreement by the 1514  
legislative authority of a municipal corporation or the director 1515  
of development services. 1516

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

act; however, all agreements entered into under this section as 1535  
it existed prior to July 1, 1994, and the incentives granted 1536  
under those agreements shall remain in effect for the period 1537  
agreed to under those agreements. The director shall make the 1538  
determination in the manner provided under section 5709.62 of 1539  
the Revised Code. 1540

Any enterprise wishing to enter into an agreement with the 1541  
board under division (B) or (D) of this section shall submit a 1542  
proposal to the board on the form and accompanied by the 1543  
application fee prescribed under division (B) of section 5709.62 1544  
of the Revised Code. The enterprise shall review and update the 1545  
estimates and listings required by the form in the manner 1546  
required under that division. The board may, on a separate form 1547  
and at any time, require any additional information necessary to 1548  
determine whether an enterprise is in compliance with an 1549  
agreement and to collect the information required to be reported 1550  
under section 5709.68 of the Revised Code. 1551

(B) If the board of county commissioners finds that an 1552  
enterprise submitting a proposal is qualified by financial 1553  
responsibility and business experience to create and preserve 1554  
employment opportunities in the zone and to improve the economic 1555  
climate of the municipal corporation or municipal corporations 1556  
or the unincorporated areas in which the zone is located and to 1557  
which the proposal applies, the board, with the consent of the 1558  
legislative authority of each affected municipal corporation or 1559  
of the board of township trustees, may do ~~either~~ one of the 1560  
following: 1561

(1) Enter into an agreement with the enterprise under 1562  
which the enterprise agrees to establish, expand, renovate, or 1563  
occupy a facility in the zone and hire new employees, or 1564

preserve employment opportunities for existing employees, in 1565  
return for the following incentives: 1566

(a) When the facility is located in a municipal 1567  
corporation, the board may enter into an agreement for one or 1568  
more of the incentives provided in division (C) of section 1569  
5709.62 of the Revised Code, subject to division (D) of that 1570  
section; 1571

(b) When the facility is located in an unincorporated 1572  
area, the board may enter into an agreement for one or more of 1573  
the following incentives: 1574

(i) Exemption for a specified number of years, not to 1575  
exceed fifteen, of a specified portion, up to sixty per cent, of 1576  
the assessed value of tangible personal property first used in 1577  
business at a project site as a result of the agreement. If an 1578  
exemption for inventory is specifically granted in the agreement 1579  
pursuant to this division, the exemption applies to inventory 1580  
required to be listed pursuant to sections 5711.15 and 5711.16 1581  
of the Revised Code, except, in the instance of an expansion or 1582  
other situations in which an enterprise was in business at the 1583  
facility prior to the establishment of the zone, the inventory 1584  
that is exempt is that amount or value of inventory in excess of 1585  
the amount or value of inventory required to be listed in the 1586  
personal property tax return of the enterprise in the return for 1587  
the tax year in which the agreement is entered into. 1588

(ii) Exemption for a specified number of years, not to 1589  
exceed fifteen, of a specified portion, up to sixty per cent, of 1590  
the increase in the assessed valuation of real property 1591  
constituting the project site subsequent to formal approval of 1592  
the agreement by the board; 1593

(iii) Provision for a specified number of years, not to 1594  
exceed fifteen, of any optional services or assistance the board 1595  
is authorized to provide with regard to the project site; 1596

(iv) The incentive described in division (C) (2) of section 1597  
5709.62 of the Revised Code. 1598

(2) Enter into an agreement with an enterprise that plans 1599  
to purchase and operate a large manufacturing facility that has 1600  
ceased operation or has announced its intention to cease 1601  
operation, in return for exemption for a specified number of 1602  
years, not to exceed fifteen, of a specified portion, up to one 1603  
hundred per cent, of tangible personal property used in business 1604  
at the project site as a result of the agreement, or of real 1605  
property constituting the project site, or both. 1606

(3) Enter into an agreement with an enterprise that either 1607  
is the owner of real property constituting the site of a 1608  
megaproject or is a megaproject supplier in return for an 1609  
exemption for a specified number of years, not to exceed thirty, 1610  
of a specified portion, up to one hundred per cent, of the 1611  
increase in the assessed value of real property constituting the 1612  
site of a megaproject or real property owned and occupied by the 1613  
megaproject supplier, respectively, beginning after the tax year 1614  
in which the agreement is formally approved by the legislative 1615  
authority. 1616

(C) (1) (a) Notwithstanding divisions (B) (1) (b) (i) and (ii) 1617  
of this section, the portion of the assessed value of tangible 1618  
personal property or of the increase in the assessed valuation 1619  
of real property exempted from taxation under those divisions 1620  
may exceed sixty per cent in any year for which that portion is 1621  
exempted if the average percentage exempted for all years in 1622  
which the agreement is in effect does not exceed fifty per cent, 1623

or if the board of education of the city, local, or exempted 1624  
village school district within the territory of which the 1625  
property is or will be located approves a percentage in excess 1626  
of sixty per cent. 1627

(b) Notwithstanding any provision of the Revised Code to 1628  
the contrary, the exemptions described in divisions (B) (1) (b) 1629  
(i), (ii), (iii), and (iv) and (B) (2) of this section may be for 1630  
up to fifteen years and the exemption described in division (B) 1631  
(3) of this section may be for up to thirty years if the board 1632  
of education of the city, local, or exempted village school 1633  
district within the territory of which the property is or will 1634  
be located approves a number of years in excess of ten. 1635

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

5709.82 of the Revised Code. The board of county commissioners 1655  
may approve the agreement at any time after the board of 1656  
education certifies its resolution approving the agreement to 1657  
the board of county commissioners, or, if the board of education 1658  
approves the agreement conditionally, at any time after the 1659  
conditions are agreed to by the board of education and the board 1660  
of county commissioners. If an agreement is negotiated between 1661  
the legislative authority and the board to compensate the school 1662  
district for all or part of the taxes exempted, the legislative 1663  
authority shall compensate the joint vocational school district 1664  
within which the property is located at the same rate and under 1665  
the same terms received by the city, local, or exempted village 1666  
school district. 1667

If a board of education has adopted a resolution waiving 1668  
its right to approve agreements and the resolution remains in 1669  
effect, approval of an agreement by the board of education is 1670  
not required under division (C) of this section. If a board of 1671  
education has adopted a resolution allowing a board of county 1672  
commissioners to deliver the notice required under this division 1673  
fewer than forty-five business days prior to approval of the 1674  
agreement by the board of county commissioners, the board of 1675  
county commissioners shall deliver the notice to the board of 1676  
education not later than the number of days prior to such 1677  
approval as prescribed by the board of education in its 1678  
resolution. If a board of education adopts a resolution waiving 1679  
its right to approve agreements or shortening the notification 1680  
period, the board of education shall certify a copy of the 1681  
resolution to the board of county commissioners. If the board of 1682  
education rescinds such a resolution, it shall certify notice of 1683  
the rescission to the board of county commissioners. 1684

(2) The board of county commissioners shall comply with 1685

section 5709.83 of the Revised Code unless the board of 1686  
education has adopted a resolution under that section waiving 1687  
its right to receive such notice. 1688

(D) This division applies to zones certified by the 1689  
director of development services under this section prior to 1690  
July 22, 1994. 1691

With the consent of the legislative authority of each 1692  
affected municipal corporation or board of township trustees of 1693  
each affected township, the board of county commissioners that 1694  
designated a zone to which this division applies may enter into 1695  
an agreement with an enterprise if the board finds that the 1696  
enterprise satisfies one of the criteria described in divisions 1697  
(D) (1) to (5) of this section: 1698

(1) The enterprise currently has no operations in this 1699  
state and, subject to approval of the agreement, intends to 1700  
establish operations in the zone; 1701

(2) The enterprise currently has operations in this state 1702  
and, subject to approval of the agreement, intends to establish 1703  
operations at a new location in the zone that would not result 1704  
in a reduction in the number of employee positions at any of the 1705  
enterprise's other locations in this state; 1706

(3) The enterprise, subject to approval of the agreement, 1707  
intends to relocate operations, currently located in another 1708  
state, to the zone; 1709

(4) The enterprise, subject to approval of the agreement, 1710  
intends to expand operations at an existing site in the zone 1711  
that the enterprise currently operates; 1712

(5) The enterprise, subject to approval of the agreement, 1713  
intends to relocate operations, currently located in this state, 1714

to the zone, and the director of development services has issued 1715  
a waiver for the enterprise under division (B) of section 1716  
5709.633 of the Revised Code. 1717

The agreement shall require the enterprise to agree to 1718  
establish, expand, renovate, or occupy a facility in the zone 1719  
and hire new employees, or preserve employment opportunities for 1720  
existing employees, in return for one or more of the incentives 1721  
described in division (B) of this section. 1722

(E) All agreements entered into under this section shall 1723  
be in the form prescribed under section 5709.631 of the Revised 1724  
Code. After an agreement under this section is entered into, if 1725  
the board of county commissioners revokes its designation of a 1726  
zone, or if the director of development services revokes a 1727  
zone's certification, any entitlements granted under the 1728  
agreement shall continue for the number of years specified in 1729  
the agreement. 1730

(F) Except as otherwise provided in this division, an 1731  
agreement entered into under this section shall require that the 1732  
enterprise pay an annual fee equal to the greater of one per 1733  
cent of the dollar value of incentives offered under the 1734  
agreement or five hundred dollars; provided, however, that if 1735  
the value of the incentives exceeds two hundred fifty thousand 1736  
dollars, the fee shall not exceed two thousand five hundred 1737  
dollars. The fee shall be payable to the board of county 1738  
commissioners once per year for each year the agreement is 1739  
effective on the days and in the form specified in the 1740  
agreement. Fees paid shall be deposited in a special fund 1741  
created for such purpose by the board and shall be used by the 1742  
board exclusively for the purpose of complying with section 1743  
5709.68 of the Revised Code and by the tax incentive review 1744

council created under section 5709.85 of the Revised Code 1745  
exclusively for the purposes of performing the duties prescribed 1746  
under that section. The board may waive or reduce the amount of 1747  
the fee charged against an enterprise, but such waiver or 1748  
reduction does not affect the obligations of the board or the 1749  
tax incentive review council to comply with section 5709.68 or 1750  
5709.85 of the Revised Code, respectively. 1751

(G) With the approval of the legislative authority of a 1752  
municipal corporation or the board of township trustees of a 1753  
township in which a zone is designated under division (A) of 1754  
this section, the board of county commissioners may delegate to 1755  
that legislative authority or board any powers and duties of the 1756  
board of county commissioners to negotiate and administer 1757  
agreements with regard to that zone under this section. 1758

(H) When an agreement is entered into pursuant to this 1759  
section, the board of county commissioners authorizing the 1760  
agreement or the legislative authority or board of township 1761  
trustees that negotiates and administers the agreement shall 1762  
forward a copy of the agreement to the director of development 1763  
services and to the tax commissioner within fifteen days after 1764  
the agreement is entered into. If any agreement includes terms 1765  
not provided for in section 5709.631 of the Revised Code 1766  
affecting the revenue of a city, local, exempted village, or 1767  
joint vocational school district or causing revenue to be 1768  
foregone by the district, including any compensation to be paid 1769  
to the school district pursuant to section 5709.82 of the 1770  
Revised Code, those terms also shall be forwarded in writing to 1771  
the director of development services along with the copy of the 1772  
agreement forwarded under this division. 1773

(I) After an agreement is entered into, the enterprise 1774

shall file with each personal property tax return required to be 1775  
filed, or annual report that is required to be filed under 1776  
section 5727.08 of the Revised Code, while the agreement is in 1777  
effect, an informational return, on a form prescribed by the tax 1778  
commissioner for that purpose, setting forth separately the 1779  
property, and related costs and values, exempted from taxation 1780  
under the agreement. 1781

(J) Enterprises may agree to give preference to residents 1782  
of the zone within which the agreement applies relative to 1783  
residents of this state who do not reside in the zone when 1784  
hiring new employees under the agreement. 1785

(K) An agreement entered into under this section may 1786  
include a provision requiring the enterprise to create one or 1787  
more temporary internship positions for students enrolled in a 1788  
course of study at a school or other educational institution in 1789  
the vicinity, and to create a scholarship or provide another 1790  
form of educational financial assistance for students holding 1791  
such a position in exchange for the student's commitment to work 1792  
for the enterprise at the completion of the internship. 1793

(L) The tax commissioner's authority in determining the 1794  
accuracy of any exemption granted by an agreement entered into 1795  
under this section is limited to divisions (B) (1) (b) (i) and 1796  
(ii), (B) (2) and (3), (C), and (I) of this section, division (B) 1797  
(1) (b) (iv) of this section as it pertains to divisions (C) (2) 1798  
(a), (b), and (c) of section 5709.62 of the Revised Code, and 1799  
divisions (B) (1) to (10) of section 5709.631 of the Revised Code 1800  
and, as authorized by law, to enforcing any modification to, or 1801  
revocation of, that agreement by the board of county 1802  
commissioners or the director of development services or, if the 1803  
board's powers and duties are delegated under division (G) of 1804

this section, by the legislative authority of a municipal 1805  
corporation or board of township trustees. 1806

**Sec. 5709.631.** Each agreement entered into under sections 1807  
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 1808  
April 1, 1994, shall be in writing and shall include all of the 1809  
information and statements prescribed by this section. 1810  
Agreements may include terms not prescribed by this section, but 1811  
such terms shall in no way derogate from the information and 1812  
statements prescribed by this section. 1813

(A) Each agreement shall include the following 1814  
information: 1815

(1) The names of all parties to the agreement; 1816

(2) A description of the investments to be made by the 1817  
applicant enterprise or by another party at the facility whether 1818  
or not the investments are exempted from taxation, including 1819  
existing or new building size and cost thereof; the value of 1820  
machinery, equipment, furniture, and fixtures, including an 1821  
itemization of the value of machinery, equipment, furniture, and 1822  
fixtures used at another location in this state prior to the 1823  
agreement and relocated or to be relocated from that location to 1824  
the facility and the value of machinery, equipment, furniture, 1825  
and fixtures at the facility prior to the execution of the 1826  
agreement that will not be exempted from taxation; the value of 1827  
inventory at the facility, including an itemization of the value 1828  
of inventory held at another location in this state prior to the 1829  
agreement and relocated or to be relocated from that location to 1830  
the facility, and the value of inventory held at the facility 1831  
prior to the execution of the agreement that will not be 1832  
exempted from taxation; 1833

(3) The scheduled starting and completion dates of 1834  
investments made in building, machinery, equipment, furniture, 1835  
fixtures, and inventory; 1836

(4) Estimates of the number of employee positions to be 1837  
created each year of the agreement and of the number of employee 1838  
positions retained by the applicant enterprise due to the 1839  
project, itemized as to the number of full-time, part-time, 1840  
permanent, and temporary positions; 1841

(5) Estimates of the dollar amount of payroll attributable 1842  
to the positions set forth in division (A)(4) of this section, 1843  
similarly itemized; 1844

(6) The number of employee positions, if any, at the 1845  
project site and at any other location in the state at the time 1846  
the agreement is executed, itemized as to the number of full- 1847  
time, part-time, permanent, and temporary positions. 1848

(B) Each agreement shall set forth the following 1849  
information and incorporate the following statements: 1850

(1) A description of real property to be exempted from 1851  
taxation under the agreement, the percentage of the assessed 1852  
valuation of the real property exempted from taxation, and the 1853  
period for which the exemption is granted, accompanied by the 1854  
statement: "The exemption commences the first year for which the 1855  
real property would first be taxable were that property not 1856  
exempted from taxation. No exemption shall commence after 1857  
\_\_\_\_\_ (insert date) nor extend beyond \_\_\_\_\_ (insert 1858  
date)." The tax commissioner shall adopt rules prescribing the 1859  
form the description of such property shall assume to ensure 1860  
that the property to be exempted from taxation under the 1861  
agreement is distinguishable from property that is not to be 1862

exempted under that agreement. 1863

(2) A description of tangible personal property to be 1864  
exempted from taxation under the agreement, the percentage of 1865  
the assessed value of the tangible personal property exempted 1866  
from taxation, and the period for which the exemption is 1867  
granted, accompanied by the statement: "The minimum investment 1868  
for tangible personal property to qualify for the exemption is 1869  
\$\_\_\_\_\_ (insert dollar amount) to purchase machinery and 1870  
equipment first used in business at the facility as a result of 1871  
the project, \$\_\_\_\_\_ (insert dollar amount) for furniture 1872  
and fixtures and other noninventory personal property first used 1873  
in business at the facility as a result of the project, and 1874  
\$\_\_\_\_\_ (insert dollar amount) for new inventory. The 1875  
maximum investment for tangible personal property to qualify for 1876  
the exemption is \$\_\_\_\_\_ (insert dollar amount) to purchase 1877  
machinery and equipment first used in business at the facility 1878  
as a result of the project, \$\_\_\_\_\_ (insert dollar amount) 1879  
for furniture and fixtures and other noninventory personal 1880  
property first used in business at the facility as a result of 1881  
the project, and \$\_\_\_\_\_ (insert dollar amount) for new 1882  
inventory. The exemption commences the first year for which the 1883  
tangible personal property would first be taxable were that 1884  
property not exempted from taxation. No exemption shall commence 1885  
after tax return year \_\_\_\_\_ (insert year) nor extend beyond 1886  
tax return year \_\_\_\_\_ (insert year). In no instance shall 1887  
any tangible personal property be exempted from taxation for 1888  
more than ten return years unless, under division (D) (2) of 1889  
section 5709.62 or under division (C) (1) (b) of section 5709.63 1890  
of the Revised Code, the board of education approves exemption 1891  
for a number of years in excess of ten, in which case the 1892  
tangible personal property may be exempted from taxation for 1893

that number of years, not to exceed fifteen return years." No 1894  
exemption shall be allowed for any type of tangible personal 1895  
property if the total investment is less than the minimum dollar 1896  
amount specified for that type of property. If, for a type of 1897  
tangible personal property, there are no minimum or maximum 1898  
investment dollar amounts specified in the statement or the 1899  
dollar amounts are designated in the statement as not 1900  
applicable, the exemption shall apply to the total cost of that 1901  
type of tangible personal property first used in business at the 1902  
facility as a result of the project. The tax commissioner shall 1903  
adopt rules prescribing the form the description of such 1904  
property shall assume to ensure that the property to be exempted 1905  
from taxation under the agreement is distinguishable from 1906  
property that is not to be exempted under that agreement. 1907

(3) "\_\_\_\_\_ (insert name of enterprise) shall pay such 1908  
real and tangible personal property taxes as are not exempted 1909  
under this agreement and are charged against such property and 1910  
shall file all tax reports and returns as required by law. If 1911  
\_\_\_\_\_ (insert name of enterprise) fails to pay such taxes 1912  
or file such returns and reports, all incentives granted under 1913  
this agreement are rescinded beginning with the year for which 1914  
such taxes are charged or such reports or returns are required 1915  
to be filed and thereafter." 1916

(4) "\_\_\_\_\_ (insert name of enterprise) hereby 1917  
certifies that at the time this agreement is executed, 1918  
\_\_\_\_\_ (insert name of enterprise) does not owe any 1919  
delinquent real or tangible personal property taxes to any 1920  
taxing authority of the State of Ohio, and does not owe 1921  
delinquent taxes for which \_\_\_\_\_ (insert name of 1922  
enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 1923  
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 1924

delinquent taxes are owed, \_\_\_\_\_ (insert name of 1925  
enterprise) currently is paying the delinquent taxes pursuant to 1926  
a delinquent tax contract enforceable by the State of Ohio or an 1927  
agent or instrumentality thereof, has filed a petition in 1928  
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 1929  
has been filed against \_\_\_\_\_ (insert name of enterprise). 1930  
For the purposes of the certification, delinquent taxes are 1931  
taxes that remain unpaid on the latest day prescribed for 1932  
payment without penalty under the chapter of the Revised Code 1933  
governing payment of those taxes." 1934

(5) " \_\_\_\_\_ (insert name of municipal corporation or 1935  
county) shall perform such acts as are reasonably necessary or 1936  
appropriate to effect, claim, reserve, and maintain exemptions 1937  
from taxation granted under this agreement including, without 1938  
limitation, joining in the execution of all documentation and 1939  
providing any necessary certificates required in connection with 1940  
such exemptions." 1941

(6) "If for any reason the enterprise zone designation 1942  
expires, the Director of the Ohio Department of Development 1943  
revokes certification of the zone, or \_\_\_\_\_ (insert name of 1944  
municipal corporation or county) revokes the designation of the 1945  
zone, entitlements granted under this agreement shall continue 1946  
for the number of years specified under this agreement, unless 1947  
\_\_\_\_\_ (insert name of enterprise) materially fails to 1948  
fulfill its obligations under this agreement and \_\_\_\_\_ 1949  
(insert name of municipal corporation or county) terminates or 1950  
modifies the exemptions from taxation granted under this 1951  
agreement." 1952

(7) "If \_\_\_\_\_ (insert name of enterprise) materially 1953  
fails to fulfill its obligations under this agreement, other 1954

than with respect to the number of employee positions estimated 1955  
to be created or retained under this agreement, or if \_\_\_\_\_ 1956  
(insert name of municipal corporation or county) determines that 1957  
the certification as to delinquent taxes required by this 1958  
agreement is fraudulent, \_\_\_\_\_ (insert name of municipal 1959  
corporation or county) may terminate or modify the exemptions 1960  
from taxation granted under this agreement." 1961

(8) "\_\_\_\_\_ (insert name of enterprise) shall provide 1962  
to the proper tax incentive review council any information 1963  
reasonably required by the council to evaluate the enterprise's 1964  
compliance with the agreement, including returns or annual 1965  
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 1966  
Revised Code if requested by the council." 1967

(9) "\_\_\_\_\_ (insert name of enterprise) and \_\_\_\_\_ 1968  
(insert name of municipal corporation or county) acknowledge 1969  
that this agreement must be approved by formal action of the 1970  
legislative authority of \_\_\_\_\_ (insert name of municipal 1971  
corporation or county) as a condition for the agreement to take 1972  
effect. This agreement takes effect upon such approval." 1973

(10) "This agreement is not transferable or assignable 1974  
without the express, written approval of \_\_\_\_\_ (insert name 1975  
of municipal corporation or county)." 1976

(11) "Exemptions from taxation granted under this 1977  
agreement shall be revoked if it is determined that 1978  
\_\_\_\_\_ (insert name of enterprise), any successor 1979  
enterprise, or any related member (as those terms are defined in 1980  
section 5709.61 of the Ohio Revised Code) has violated the 1981  
prohibition against entering into this agreement under division 1982  
(E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 1983  
of the Ohio Revised Code prior to the time prescribed by that 1984

division or either of those sections." 1985

(12) "In any three-year period during which this agreement 1986  
is in effect, if the actual number of employee positions created 1987  
or retained by . . . . . (insert name of enterprise) is 1988  
not equal to or greater than seventy-five per cent of the number 1989  
of employee positions estimated to be created or retained under 1990  
this agreement during that three-year period, . . . . . 1991  
(insert name of enterprise) shall repay the amount of taxes on 1992  
property that would have been payable had the property not been 1993  
exempted from taxation under this agreement during that three- 1994  
year period. In addition, the . . . . . (insert name of 1995  
municipal corporation or county) may terminate or modify the 1996  
exemptions from taxation granted under this agreement." 1997

(13) If the enterprise is the owner of real property 1998  
constituting the site of a megaproject or is a megaproject 1999  
supplier, both of the following: 2000

(a) A requirement that the enterprise annually certify to 2001  
the legislative authority whether the megaproject operator or 2002  
megaproject supplier, as applicable, holds a certificate issued 2003  
under division (D) (7) of section 122.17 of the Revised Code on 2004  
the first day of the current tax year; 2005

(b) A provision authorizing the legislative authority to 2006  
terminate the exemption for current and subsequent tax years if 2007  
the megaproject operator or megaproject supplier, as applicable, 2008  
does not hold a certificate issued under division (D) (7) of 2009  
section 122.17 of the Revised Code on the first day of the 2010  
current tax year. 2011

The statement described in division (B) (7) of this section 2012  
may include the following statement, appended at the end of the 2013

statement: "and may require the repayment of the amount of taxes 2014  
that would have been payable had the property not been exempted 2015  
from taxation under this agreement." If the agreement includes a 2016  
statement requiring repayment of exempted taxes, it also may 2017  
authorize the legislative authority to secure repayment of such 2018  
taxes by a lien on the exempted property in the amount required 2019  
to be repaid. Such a lien on exempted real property shall 2020  
attach, and may be perfected, collected, and enforced, in the 2021  
same manner as a mortgage lien on real property, and shall 2022  
otherwise have the same force and effect as a mortgage lien on 2023  
real property. Notwithstanding section 5719.01 of the Revised 2024  
Code, such a lien on exempted tangible personal property shall 2025  
attach, and may be perfected, collected, and enforced, in the 2026  
same manner as a security interest in goods under Chapter 1309. 2027  
of the Revised Code, and shall otherwise have the same force and 2028  
effect as such a security interest. 2029

(C) If the director of development had to issue a waiver 2030  
under section 5709.633 of the Revised Code as a condition for 2031  
the agreement to be executed, the agreement shall include the 2032  
following statement: 2033

"Continuation of this agreement is subject to the validity 2034  
of the circumstance upon which \_\_\_\_\_ (insert name of 2035  
enterprise) applied for, and the Director of the Ohio Department 2036  
of Development issued, the waiver pursuant to section 5709.633 2037  
of the Ohio Revised Code. If, after formal approval of this 2038  
agreement by \_\_\_\_\_ (insert name of municipal corporation or 2039  
county), the Director or \_\_\_\_\_ (insert name of municipal 2040  
corporation or county) discovers that such a circumstance did 2041  
not exist, \_\_\_\_\_ (insert name of enterprise) shall be 2042  
deemed to have materially failed to comply with this agreement." 2043

If the director issued a waiver on the basis of the 2044  
circumstance described in division (B) (3) of section 5709.633 of 2045  
the Ohio Revised Code, the conditions enumerated in divisions 2046  
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 2047  
section shall be incorporated in the information described in 2048  
divisions (A) (2), (3), and (4) of this section. 2049

**Sec. 5709.632.** (A) (1) The legislative authority of a 2050  
municipal corporation defined by the United States office of 2051  
management and budget as a principal city of a metropolitan 2052  
statistical area may, in the manner set forth in section 5709.62 2053  
of the Revised Code, designate one or more areas in the 2054  
municipal corporation as a proposed enterprise zone. 2055

(2) With the consent of the legislative authority of each 2056  
affected municipal corporation or of a board of township 2057  
trustees, a board of county commissioners may, in the manner set 2058  
forth in section 5709.62 of the Revised Code, designate one or 2059  
more areas in one or more municipal corporations or in 2060  
unincorporated areas of the county as proposed urban jobs and 2061  
enterprise zones, except that a board of county commissioners 2062  
may designate no more than one area within a township, or within 2063  
adjacent townships, as a proposed urban jobs and enterprise 2064  
zone. 2065

(3) The legislative authority or board of county 2066  
commissioners may petition the director of development services 2067  
for certification of the area as having the characteristics set 2068  
forth in division (A) (3) of section 5709.61 of the Revised Code. 2069  
Within sixty days after receiving such a petition, the director 2070  
shall determine whether the area has the characteristics set 2071  
forth in that division and forward the findings to the 2072  
legislative authority or board of county commissioners. If the 2073

director certifies the area as having those characteristics and 2074  
thereby certifies it as a zone, the legislative authority or 2075  
board may enter into agreements with enterprises under division 2076  
(B) of this section. Any enterprise wishing to enter into an 2077  
agreement with a legislative authority or board of county 2078  
commissioners under this section and satisfying one of the 2079  
criteria described in divisions (B)(1) to (5) of this section 2080  
shall submit a proposal to the legislative authority or board on 2081  
the form prescribed under division (B) of section 5709.62 of the 2082  
Revised Code and shall review and update the estimates and 2083  
listings required by the form in the manner required under that 2084  
division. The legislative authority or board may, on a separate 2085  
form and at any time, require any additional information 2086  
necessary to determine whether an enterprise is in compliance 2087  
with an agreement and to collect the information required to be 2088  
reported under section 5709.68 of the Revised Code. 2089

(B) Prior to entering into an agreement with an 2090  
enterprise, the legislative authority or board of county 2091  
commissioners shall determine whether the enterprise submitting 2092  
the proposal is qualified by financial responsibility and 2093  
business experience to create and preserve employment 2094  
opportunities in the zone and to improve the economic climate of 2095  
the municipal corporation or municipal corporations or the 2096  
unincorporated areas in which the zone is located and to which 2097  
the proposal applies, and whether the enterprise satisfies one 2098  
of the following criteria: 2099

(1) The enterprise currently has no operations in this 2100  
state and, subject to approval of the agreement, intends to 2101  
establish operations in the zone; 2102

(2) The enterprise currently has operations in this state 2103

and, subject to approval of the agreement, intends to establish 2104  
operations at a new location in the zone that would not result 2105  
in a reduction in the number of employee positions at any of the 2106  
enterprise's other locations in this state; 2107

(3) The enterprise, subject to approval of the agreement, 2108  
intends to relocate operations, currently located in another 2109  
state, to the zone; 2110

(4) The enterprise, subject to approval of the agreement, 2111  
intends to expand operations at an existing site in the zone 2112  
that the enterprise currently operates; 2113

(5) The enterprise, subject to approval of the agreement, 2114  
intends to relocate operations, currently located in this state, 2115  
to the zone, and the director of development services has issued 2116  
a waiver for the enterprise under division (B) of section 2117  
5709.633 of the Revised Code. 2118

(C) If the legislative authority or board determines that 2119  
the enterprise is so qualified and satisfies one of the criteria 2120  
described in divisions (B) (1) to (5) of this section, the 2121  
legislative authority or board may, after complying with section 2122  
5709.83 of the Revised Code and, in the case of a board of 2123  
commissioners, with the consent of the legislative authority of 2124  
each affected municipal corporation or of the board of township 2125  
trustees, enter into an agreement with the enterprise under 2126  
which the enterprise agrees to establish, expand, renovate, or 2127  
occupy a facility in the zone and hire new employees, or 2128  
preserve employment opportunities for existing employees, in 2129  
return for the following incentives: 2130

(1) When the facility is located in a municipal 2131  
corporation, a legislative authority or board of commissioners 2132

may enter into an agreement for one or more of the incentives 2133  
provided in ~~division~~ divisions (C) (1), (2), and (3) of section 2134  
5709.62 of the Revised Code, subject to division (D) of that 2135  
section, or for the incentive provided in division (C) (4) of 2136  
that section if the enterprise is the owner of real property 2137  
constituting the site of a megaproject or is a megaproject 2138  
supplier; 2139

(2) When the facility is located in an unincorporated 2140  
area, a board of commissioners may enter into an agreement for 2141  
one or more of the incentives provided in divisions (B) (1) (b), ~~—~~ 2142  
and (B) (2), and (B) (3) of section 5709.63 of the Revised Code, 2143  
subject to division (C) of that section, or for the incentive 2144  
provided in division (B) (3) of that section if the enterprise is 2145  
the owner of real property constituting the site of a 2146  
megaproject or is a megaproject supplier. 2147

(D) All agreements entered into under this section shall 2148  
be in the form prescribed under section 5709.631 of the Revised 2149  
Code. After an agreement under this section is entered into, if 2150  
the legislative authority or board of county commissioners 2151  
revokes its designation of the zone, or if the director of 2152  
development services revokes the zone's certification, any 2153  
entitlements granted under the agreement shall continue for the 2154  
number of years specified in the agreement. 2155

(E) Except as otherwise provided in this division, an 2156  
agreement entered into under this section shall require that the 2157  
enterprise pay an annual fee equal to the greater of one per 2158  
cent of the dollar value of incentives offered under the 2159  
agreement or five hundred dollars; provided, however, that if 2160  
the value of the incentives exceeds two hundred fifty thousand 2161  
dollars, the fee shall not exceed two thousand five hundred 2162

dollars. The fee shall be payable to the legislative authority 2163  
or board of commissioners once per year for each year the 2164  
agreement is effective on the days and in the form specified in 2165  
the agreement. Fees paid shall be deposited in a special fund 2166  
created for such purpose by the legislative authority or board 2167  
and shall be used by the legislative authority or board 2168  
exclusively for the purpose of complying with section 5709.68 of 2169  
the Revised Code and by the tax incentive review council created 2170  
under section 5709.85 of the Revised Code exclusively for the 2171  
purposes of performing the duties prescribed under that section. 2172  
The legislative authority or board may waive or reduce the 2173  
amount of the fee charged against an enterprise, but such waiver 2174  
or reduction does not affect the obligations of the legislative 2175  
authority or board or the tax incentive review council to comply 2176  
with section 5709.68 or 5709.85 of the Revised Code, 2177  
respectively. 2178

(F) With the approval of the legislative authority of a 2179  
municipal corporation or the board of township trustees of a 2180  
township in which a zone is designated under division (A) (2) of 2181  
this section, the board of county commissioners may delegate to 2182  
that legislative authority or board any powers and duties of the 2183  
board to negotiate and administer agreements with regard to that 2184  
zone under this section. 2185

(G) When an agreement is entered into pursuant to this 2186  
section, the legislative authority or board of commissioners 2187  
authorizing the agreement shall forward a copy of the agreement 2188  
to the director of development services and to the tax 2189  
commissioner within fifteen days after the agreement is entered 2190  
into. If any agreement includes terms not provided for in 2191  
section 5709.631 of the Revised Code affecting the revenue of a 2192  
city, local, exempted village, or joint vocational school 2193

district or causing revenue to be forgone by the district, 2194  
including any compensation to be paid to the school district 2195  
pursuant to section 5709.82 of the Revised Code, those terms 2196  
also shall be forwarded in writing to the director of 2197  
development services along with the copy of the agreement 2198  
forwarded under this division. 2199

(H) After an agreement is entered into, the enterprise 2200  
shall file with each personal property tax return required to be 2201  
filed while the agreement is in effect, an informational return, 2202  
on a form prescribed by the tax commissioner for that purpose, 2203  
setting forth separately the property, and related costs and 2204  
values, exempted from taxation under the agreement. 2205

(I) An agreement entered into under this section may 2206  
include a provision requiring the enterprise to create one or 2207  
more temporary internship positions for students enrolled in a 2208  
course of study at a school or other educational institution in 2209  
the vicinity, and to create a scholarship or provide another 2210  
form of educational financial assistance for students holding 2211  
such a position in exchange for the student's commitment to work 2212  
for the enterprise at the completion of the internship. 2213

**Sec. 5751.01.** As used in this chapter: 2214

(A) "Person" means, but is not limited to, individuals, 2215  
combinations of individuals of any form, receivers, assignees, 2216  
trustees in bankruptcy, firms, companies, joint-stock companies, 2217  
business trusts, estates, partnerships, limited liability 2218  
partnerships, limited liability companies, associations, joint 2219  
ventures, clubs, societies, for-profit corporations, S 2220  
corporations, qualified subchapter S subsidiaries, qualified 2221  
subchapter S trusts, trusts, entities that are disregarded for 2222  
federal income tax purposes, and any other entities. 2223

(B) "Consolidated elected taxpayer" means a group of two 2224  
or more persons treated as a single taxpayer for purposes of 2225  
this chapter as the result of an election made under section 2226  
5751.011 of the Revised Code. 2227

(C) "Combined taxpayer" means a group of two or more 2228  
persons treated as a single taxpayer for purposes of this 2229  
chapter under section 5751.012 of the Revised Code. 2230

(D) "Taxpayer" means any person, or any group of persons 2231  
in the case of a consolidated elected taxpayer or combined 2232  
taxpayer treated as one taxpayer, required to register or pay 2233  
tax under this chapter. "Taxpayer" does not include excluded 2234  
persons. 2235

(E) "Excluded person" means any of the following: 2236

(1) Any person with not more than one hundred fifty 2237  
thousand dollars of taxable gross receipts during the calendar 2238  
year. Division (E)(1) of this section does not apply to a person 2239  
that is a member of a consolidated elected taxpayer; 2240

(2) A public utility that paid the excise tax imposed by 2241  
section 5727.24 or 5727.30 of the Revised Code based on one or 2242  
more measurement periods that include the entire tax period 2243  
under this chapter, except that a public utility that is a 2244  
combined company is a taxpayer with regard to the following 2245  
gross receipts: 2246

(a) Taxable gross receipts directly attributed to a public 2247  
utility activity, but not directly attributed to an activity 2248  
that is subject to the excise tax imposed by section 5727.24 or 2249  
5727.30 of the Revised Code; 2250

(b) Taxable gross receipts that cannot be directly 2251  
attributed to any activity, multiplied by a fraction whose 2252

numerator is the taxable gross receipts described in division 2253  
(E) (2) (a) of this section and whose denominator is the total 2254  
taxable gross receipts that can be directly attributed to any 2255  
activity; 2256

(c) Except for any differences resulting from the use of 2257  
an accrual basis method of accounting for purposes of 2258  
determining gross receipts under this chapter and the use of the 2259  
cash basis method of accounting for purposes of determining 2260  
gross receipts under section 5727.24 of the Revised Code, the 2261  
gross receipts directly attributed to the activity of a natural 2262  
gas company shall be determined in a manner consistent with 2263  
division (D) of section 5727.03 of the Revised Code. 2264

As used in division (E) (2) of this section, "combined 2265  
company" and "public utility" have the same meanings as in 2266  
section 5727.01 of the Revised Code. 2267

(3) A financial institution, as defined in section 5726.01 2268  
of the Revised Code, that paid the tax imposed by section 2269  
5726.02 of the Revised Code based on one or more taxable years 2270  
that include the entire tax period under this chapter; 2271

(4) A person directly or indirectly owned by one or more 2272  
financial institutions, as defined in section 5726.01 of the 2273  
Revised Code, that paid the tax imposed by section 5726.02 of 2274  
the Revised Code based on one or more taxable years that include 2275  
the entire tax period under this chapter. 2276

For the purposes of division (E) (4) of this section, a 2277  
person owns another person under the following circumstances: 2278

(a) In the case of corporations issuing capital stock, one 2279  
corporation owns another corporation if it owns fifty per cent 2280  
or more of the other corporation's capital stock with current 2281

voting rights; 2282

(b) In the case of a limited liability company, one person 2283  
owns the company if that person's membership interest, as 2284  
defined in section 1705.01 or 1706.01 of the Revised Code as 2285  
applicable, is fifty per cent or more of the combined membership 2286  
interests of all persons owning such interests in the company; 2287

(c) In the case of a partnership, trust, or other 2288  
unincorporated business organization other than a limited 2289  
liability company, one person owns the organization if, under 2290  
the articles of organization or other instrument governing the 2291  
affairs of the organization, that person has a beneficial 2292  
interest in the organization's profits, surpluses, losses, or 2293  
distributions of fifty per cent or more of the combined 2294  
beneficial interests of all persons having such an interest in 2295  
the organization. 2296

(5) A domestic insurance company or foreign insurance 2297  
company, as defined in section 5725.01 of the Revised Code, that 2298  
paid the insurance company premiums tax imposed by section 2299  
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 2300  
insurance company whose gross premiums are subject to tax under 2301  
section 3905.36 of the Revised Code based on one or more 2302  
measurement periods that include the entire tax period under 2303  
this chapter; 2304

(6) A person that solely facilitates or services one or 2305  
more securitizations of phase-in-recovery property pursuant to a 2306  
final financing order as those terms are defined in section 2307  
4928.23 of the Revised Code. For purposes of this division, 2308  
"securitization" means transferring one or more assets to one or 2309  
more persons and then issuing securities backed by the right to 2310  
receive payment from the asset or assets so transferred. 2311

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (EE) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

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

(F) Except as otherwise provided in divisions (F) (2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.	2341
(2) "Gross receipts" excludes the following amounts:	2342
(a) Interest income except interest on credit sales;	2343
(b) Dividends and distributions from corporations, and	2344
distributive or proportionate shares of receipts and income from	2345
a pass-through entity as defined under section 5733.04 of the	2346
Revised Code;	2347
(c) Receipts from the sale, exchange, or other disposition	2348
of an asset described in section 1221 or 1231 of the Internal	2349
Revenue Code, without regard to the length of time the person	2350
held the asset. Notwithstanding section 1221 of the Internal	2351
Revenue Code, receipts from hedging transactions also are	2352
excluded to the extent the transactions are entered into	2353
primarily to protect a financial position, such as managing the	2354
risk of exposure to (i) foreign currency fluctuations that	2355
affect assets, liabilities, profits, losses, equity, or	2356
investments in foreign operations; (ii) interest rate	2357
fluctuations; or (iii) commodity price fluctuations. As used in	2358
division (F) (2) (c) of this section, "hedging transaction" has	2359
the same meaning as used in section 1221 of the Internal Revenue	2360
Code and also includes transactions accorded hedge accounting	2361
treatment under statement of financial accounting standards	2362
number 133 of the financial accounting standards board. For the	2363
purposes of division (F) (2) (c) of this section, the actual	2364
transfer of title of real or tangible personal property to	2365
another entity is not a hedging transaction.	2366
(d) Proceeds received attributable to the repayment,	2367
maturity, or redemption of the principal of a loan, bond, mutual	2368
fund, certificate of deposit, or marketable instrument;	2369

(e) The principal amount received under a repurchase 2370  
agreement or on account of any transaction properly 2371  
characterized as a loan to the person; 2372

(f) Contributions received by a trust, plan, or other 2373  
arrangement, any of which is described in section 501(a) of the 2374  
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 2375  
1, Subchapter (D) of the Internal Revenue Code applies; 2376

(g) Compensation, whether current or deferred, and whether 2377  
in cash or in kind, received or to be received by an employee, 2378  
former employee, or the employee's legal successor for services 2379  
rendered to or for an employer, including reimbursements 2380  
received by or for an individual for medical or education 2381  
expenses, health insurance premiums, or employee expenses, or on 2382  
account of a dependent care spending account, legal services 2383  
plan, any cafeteria plan described in section 125 of the 2384  
Internal Revenue Code, or any similar employee reimbursement; 2385

(h) Proceeds received from the issuance of the taxpayer's 2386  
own stock, options, warrants, puts, or calls, or from the sale 2387  
of the taxpayer's treasury stock; 2388

(i) Proceeds received on the account of payments from 2389  
insurance policies, except those proceeds received for the loss 2390  
of business revenue; 2391

(j) Gifts or charitable contributions received; membership 2392  
dues received by trade, professional, homeowners', or 2393  
condominium associations; and payments received for educational 2394  
courses, meetings, meals, or similar payments to a trade, 2395  
professional, or other similar association; and fundraising 2396  
receipts received by any person when any excess receipts are 2397  
donated or used exclusively for charitable purposes; 2398

(k) Damages received as the result of litigation in excess	2399
of amounts that, if received without litigation, would be gross	2400
receipts;	2401
(l) Property, money, and other amounts received or	2402
acquired by an agent on behalf of another in excess of the	2403
agent's commission, fee, or other remuneration;	2404
(m) Tax refunds, other tax benefit recoveries, and	2405
reimbursements for the tax imposed under this chapter made by	2406
entities that are part of the same combined taxpayer or	2407
consolidated elected taxpayer group, and reimbursements made by	2408
entities that are not members of a combined taxpayer or	2409
consolidated elected taxpayer group that are required to be made	2410
for economic parity among multiple owners of an entity whose tax	2411
obligation under this chapter is required to be reported and	2412
paid entirely by one owner, pursuant to the requirements of	2413
sections 5751.011 and 5751.012 of the Revised Code;	2414
(n) Pension reversions;	2415
(o) Contributions to capital;	2416
(p) Sales or use taxes collected as a vendor or an out-of-	2417
state seller on behalf of the taxing jurisdiction from a	2418
consumer or other taxes the taxpayer is required by law to	2419
collect directly from a purchaser and remit to a local, state,	2420
or federal tax authority;	2421
(q) In the case of receipts from the sale of cigarettes,	2422
tobacco products, or vapor products by a wholesale dealer,	2423
retail dealer, distributor, manufacturer, vapor distributor, or	2424
seller, all as defined in section 5743.01 of the Revised Code,	2425
an amount equal to the federal and state excise taxes paid by	2426
any person on or for such cigarettes, tobacco products, or vapor	2427

products under subtitle E of the Internal Revenue Code or 2428  
Chapter 5743. of the Revised Code; 2429

(r) In the case of receipts from the sale, transfer, 2430  
exchange, or other disposition of motor fuel as "motor fuel" is 2431  
defined in section 5736.01 of the Revised Code, an amount equal 2432  
to the value of the motor fuel, including federal and state 2433  
motor fuel excise taxes and receipts from billing or invoicing 2434  
the tax imposed under section 5736.02 of the Revised Code to 2435  
another person; 2436

(s) In the case of receipts from the sale of beer or 2437  
intoxicating liquor, as defined in section 4301.01 of the 2438  
Revised Code, by a person holding a permit issued under Chapter 2439  
4301. or 4303. of the Revised Code, an amount equal to federal 2440  
and state excise taxes paid by any person on or for such beer or 2441  
intoxicating liquor under subtitle E of the Internal Revenue 2442  
Code or Chapter 4301. or 4305. of the Revised Code; 2443

(t) Receipts realized by a new motor vehicle dealer or 2444  
used motor vehicle dealer, as defined in section 4517.01 of the 2445  
Revised Code, from the sale or other transfer of a motor 2446  
vehicle, as defined in that section, to another motor vehicle 2447  
dealer for the purpose of resale by the transferee motor vehicle 2448  
dealer, but only if the sale or other transfer was based upon 2449  
the transferee's need to meet a specific customer's preference 2450  
for a motor vehicle; 2451

(u) Receipts from a financial institution described in 2452  
division (E) (3) of this section for services provided to the 2453  
financial institution in connection with the issuance, 2454  
processing, servicing, and management of loans or credit 2455  
accounts, if such financial institution and the recipient of 2456  
such receipts have at least fifty per cent of their ownership 2457

interests owned or controlled, directly or constructively 2458  
through related interests, by common owners; 2459

(v) Receipts realized from administering anti-neoplastic 2460  
drugs and other cancer chemotherapy, biologicals, therapeutic 2461  
agents, and supportive drugs in a physician's office to patients 2462  
with cancer; 2463

(w) Funds received or used by a mortgage broker that is 2464  
not a dealer in intangibles, other than fees or other 2465  
consideration, pursuant to a table-funding mortgage loan or 2466  
warehouse-lending mortgage loan. Terms used in division (F) (2) 2467  
(w) of this section have the same meanings as in section 1322.01 2468  
of the Revised Code, except "mortgage broker" means a person 2469  
assisting a buyer in obtaining a mortgage loan for a fee or 2470  
other consideration paid by the buyer or a lender, or a person 2471  
engaged in table-funding or warehouse-lending mortgage loans 2472  
that are first lien mortgage loans. 2473

(x) Property, money, and other amounts received by a 2474  
professional employer organization, as defined in section 2475  
4125.01 of the Revised Code, or an alternate employer 2476  
organization, as defined in section 4133.01 of the Revised Code, 2477  
from a client employer, as defined in either of those sections 2478  
as applicable, in excess of the administrative fee charged by 2479  
the professional employer organization or the alternate employer 2480  
organization to the client employer; 2481

(y) In the case of amounts retained as commissions by a 2482  
permit holder under Chapter 3769. of the Revised Code, an amount 2483  
equal to the amounts specified under that chapter that must be 2484  
paid to or collected by the tax commissioner as a tax and the 2485  
amounts specified under that chapter to be used as purse money; 2486

(z) Qualifying distribution center receipts as determined	2487
under section 5751.40 of the Revised Code.	2488
(aa) Receipts of an employer from payroll deductions	2489
relating to the reimbursement of the employer for advancing	2490
moneys to an unrelated third party on an employee's behalf;	2491
(bb) Cash discounts allowed and taken;	2492
(cc) Returns and allowances;	2493
(dd) Bad debts from receipts on the basis of which the tax	2494
imposed by this chapter was paid in a prior quarterly tax	2495
payment period. For the purpose of this division, "bad debts"	2496
means any debts that have become worthless or uncollectible	2497
between the preceding and current quarterly tax payment periods,	2498
have been uncollected for at least six months, and that may be	2499
claimed as a deduction under section 166 of the Internal Revenue	2500
Code and the regulations adopted under that section, or that	2501
could be claimed as such if the taxpayer kept its accounts on	2502
the accrual basis. "Bad debts" does not include repossessed	2503
property, uncollectible amounts on property that remains in the	2504
possession of the taxpayer until the full purchase price is	2505
paid, or expenses in attempting to collect any account	2506
receivable or for any portion of the debt recovered;	2507
(ee) Any amount realized from the sale of an account	2508
receivable to the extent the receipts from the underlying	2509
transaction giving rise to the account receivable were included	2510
in the gross receipts of the taxpayer;	2511
(ff) Any receipts directly attributed to a transfer	2512
agreement or to the enterprise transferred under that agreement	2513
under section 4313.02 of the Revised Code.	2514
(gg) Qualified uranium receipts as determined under	2515

section 5751.41 of the Revised Code. 2516

(hh) In the case of amounts collected by a licensed casino 2517  
operator from casino gaming, amounts in excess of the casino 2518  
operator's gross casino revenue. In this division, "casino 2519  
operator" and "casino gaming" have the meanings defined in 2520  
section 3772.01 of the Revised Code, and "gross casino revenue" 2521  
has the meaning defined in section 5753.01 of the Revised Code. 2522

(ii) Receipts realized from the sale of agricultural 2523  
commodities by an agricultural commodity handler, both as 2524  
defined in section 926.01 of the Revised Code, that is licensed 2525  
by the director of agriculture to handle agricultural 2526  
commodities in this state. 2527

(jj) Qualifying integrated supply chain receipts as 2528  
determined under section 5751.42 of the Revised Code. 2529

(kk) In the case of a railroad company described in 2530  
division (D)(9) of section 5727.01 of the Revised Code that 2531  
purchases dyed diesel fuel directly from a supplier as defined 2532  
by section 5736.01 of the Revised Code, an amount equal to the 2533  
product of the number of gallons of dyed diesel fuel purchased 2534  
directly from such a supplier multiplied by the average 2535  
wholesale price for a gallon of diesel fuel as determined under 2536  
section 5736.02 of the Revised Code for the period during which 2537  
the fuel was purchased multiplied by a fraction, the numerator 2538  
of which equals the rate of tax levied by section 5736.02 of the 2539  
Revised Code less the rate of tax computed in section 5751.03 of 2540  
the Revised Code, and the denominator of which equals the rate 2541  
of tax computed in section 5751.03 of the Revised Code. 2542

(ll) Receipts realized by an out-of-state disaster 2543  
business from disaster work conducted in this state during a 2544

disaster response period pursuant to a qualifying solicitation 2545  
received by the business. Terms used in division (F) (2) (11) of 2546  
this section have the same meanings as in section 5703.94 of the 2547  
Revised Code. 2548

(mm) In the case of receipts from the sale or transfer of 2549  
a mortgage-backed security or a mortgage loan by a mortgage 2550  
lender holding a valid certificate of registration issued under 2551  
Chapter 1322. of the Revised Code or by a person that is a 2552  
member of the mortgage lender's consolidated elected taxpayer 2553  
group, an amount equal to the principal balance of the mortgage 2554  
loan. 2555

(nn) Receipts of a megaproject supplier that holds a 2556  
certificate issued under division (D) (7) of section 122.17 of 2557  
the Revised Code from sales of tangible personal property 2558  
directly to a megaproject operator in this state. 2559

(oo) Any receipts for which the tax imposed by this 2560  
chapter is prohibited by the constitution or laws of the United 2561  
States or the constitution of this state. 2562

(3) In the case of a taxpayer when acting as a real estate 2563  
broker, "gross receipts" includes only the portion of any fee 2564  
for the service of a real estate broker, or service of a real 2565  
estate salesperson associated with that broker, that is retained 2566  
by the broker and not paid to an associated real estate 2567  
salesperson or another real estate broker. For the purposes of 2568  
this division, "real estate broker" and "real estate 2569  
salesperson" have the same meanings as in section 4735.01 of the 2570  
Revised Code. 2571

(4) A taxpayer's method of accounting for gross receipts 2572  
for a tax period shall be the same as the taxpayer's method of 2573

accounting for federal income tax purposes for the taxpayer's 2574  
federal taxable year that includes the tax period. If a 2575  
taxpayer's method of accounting for federal income tax purposes 2576  
changes, its method of accounting for gross receipts under this 2577  
chapter shall be changed accordingly. 2578

(G) "Taxable gross receipts" means gross receipts sitused 2579  
to this state under section 5751.033 of the Revised Code. 2580

(H) A person has "substantial nexus with this state" if 2581  
any of the following applies. The person: 2582

(1) Owns or uses a part or all of its capital in this 2583  
state; 2584

(2) Holds a certificate of compliance with the laws of 2585  
this state authorizing the person to do business in this state; 2586

(3) Has bright-line presence in this state; 2587

(4) Otherwise has nexus with this state to an extent that 2588  
the person can be required to remit the tax imposed under this 2589  
chapter under the Constitution of the United States. 2590

(I) A person has "bright-line presence" in this state for 2591  
a reporting period and for the remaining portion of the calendar 2592  
year if any of the following applies. The person: 2593

(1) Has at any time during the calendar year property in 2594  
this state with an aggregate value of at least fifty thousand 2595  
dollars. For the purpose of division (I)(1) of this section, 2596  
owned property is valued at original cost and rented property is 2597  
valued at eight times the net annual rental charge. 2598

(2) Has during the calendar year payroll in this state of 2599  
at least fifty thousand dollars. Payroll in this state includes 2600  
all of the following: 2601

(a) Any amount subject to withholding by the person under 2602  
section 5747.06 of the Revised Code; 2603

(b) Any other amount the person pays as compensation to an 2604  
individual under the supervision or control of the person for 2605  
work done in this state; and 2606

(c) Any amount the person pays for services performed in 2607  
this state on its behalf by another. 2608

(3) Has during the calendar year taxable gross receipts of 2609  
at least five hundred thousand dollars. 2610

(4) Has at any time during the calendar year within this 2611  
state at least twenty-five per cent of the person's total 2612  
property, total payroll, or total gross receipts. 2613

(5) Is domiciled in this state as an individual or for 2614  
corporate, commercial, or other business purposes. 2615

(J) "Tangible personal property" has the same meaning as 2616  
in section 5739.01 of the Revised Code. 2617

(K) "Internal Revenue Code" means the Internal Revenue 2618  
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 2619  
used in this chapter that is not otherwise defined has the same 2620  
meaning as when used in a comparable context in the laws of the 2621  
United States relating to federal income taxes unless a 2622  
different meaning is clearly required. Any reference in this 2623  
chapter to the Internal Revenue Code includes other laws of the 2624  
United States relating to federal income taxes. 2625

(L) "Calendar quarter" means a three-month period ending 2626  
on the thirty-first day of March, the thirtieth day of June, the 2627  
thirtieth day of September, or the thirty-first day of December. 2628

(M) "Tax period" means the calendar quarter or calendar 2629

year on the basis of which a taxpayer is required to pay the tax 2630  
imposed under this chapter. 2631

(N) "Calendar year taxpayer" means a taxpayer for which 2632  
the tax period is a calendar year. 2633

(O) "Calendar quarter taxpayer" means a taxpayer for which 2634  
the tax period is a calendar quarter. 2635

(P) "Agent" means a person authorized by another person to 2636  
act on its behalf to undertake a transaction for the other, 2637  
including any of the following: 2638

(1) A person receiving a fee to sell financial 2639  
instruments; 2640

(2) A person retaining only a commission from a 2641  
transaction with the other proceeds from the transaction being 2642  
remitted to another person; 2643

(3) A person issuing licenses and permits under section 2644  
1533.13 of the Revised Code; 2645

(4) A lottery sales agent holding a valid license issued 2646  
under section 3770.05 of the Revised Code; 2647

(5) A person acting as an agent of the division of liquor 2648  
control under section 4301.17 of the Revised Code. 2649

(Q) "Received" includes amounts accrued under the accrual 2650  
method of accounting. 2651

(R) "Reporting person" means a person in a consolidated 2652  
elected taxpayer or combined taxpayer group that is designated 2653  
by that group to legally bind the group for all filings and tax 2654  
liabilities and to receive all legal notices with respect to 2655  
matters under this chapter, or, for the purposes of section 2656

5751.04 of the Revised Code, a separate taxpayer that is not a 2657  
member of such a group. 2658

(S) "Megaproject," "megaproject operator," and 2659  
"megaproject supplier" have the same meanings as in section 2660  
122.17 of the Revised Code. 2661

**Section 2.** That existing sections 122.17, 3735.65, 2662  
3735.67, 3735.671, 5709.61, 5709.62, 5709.63, 5709.631, 2663  
5709.632, and 5751.01 of the Revised Code are hereby repealed. 2664

**Section 3.** Section 5751.01 of the Revised Code is 2665  
presented in this act as a composite of the section as amended 2666  
by H.B. 150, H.B. 197, S.B. 201, and S.B. 276, all of the 133rd 2667  
General Assembly. The General Assembly, applying the principle 2668  
stated in division (B) of section 1.52 of the Revised Code that 2669  
amendments are to be harmonized if reasonably capable of 2670  
simultaneous operation, finds that the composite is the 2671  
resulting version of the section in effect prior to the 2672  
effective date of the section as presented in this act. 2673