

As Introduced

**134th General Assembly
Regular Session
2021-2022**

S. B. No. 45

Senators Peterson, Kunze

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 received by the authority.

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

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

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

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

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

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

(3) A requirement that the taxpayer shall maintain

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

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 exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

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

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

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

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

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 agreement or on account of any transaction properly characterized as a loan to the person;	2370 2371 2372
(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;	2373 2374 2375 2376
(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;	2377 2378 2379 2380 2381 2382 2383 2384 2385
(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;	2386 2387 2388
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	2389 2390 2391
(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;	2392 2393 2394 2395 2396 2397 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 operator from casino gaming, amounts in excess of the casino operator's gross casino revenue. In this division, "casino operator" and "casino gaming" have the meanings defined in section 3772.01 of the Revised Code, and "gross casino revenue" has the meaning defined in section 5753.01 of the Revised Code.	2517 2518 2519 2520 2521 2522
(ii) Receipts realized from the sale of agricultural commodities by an agricultural commodity handler, both as defined in section 926.01 of the Revised Code, that is licensed by the director of agriculture to handle agricultural commodities in this state.	2523 2524 2525 2526 2527
(jj) Qualifying integrated supply chain receipts as determined under section 5751.42 of the Revised Code.	2528 2529
(kk) In the case of a railroad company described in division (D)(9) of section 5727.01 of the Revised Code that purchases dyed diesel fuel directly from a supplier as defined by section 5736.01 of the Revised Code, an amount equal to the product of the number of gallons of dyed diesel fuel purchased directly from such a supplier multiplied by the average wholesale price for a gallon of diesel fuel as determined under section 5736.02 of the Revised Code for the period during which the fuel was purchased multiplied by a fraction, the numerator of which equals the rate of tax levied by section 5736.02 of the Revised Code less the rate of tax computed in section 5751.03 of the Revised Code, and the denominator of which equals the rate of tax computed in section 5751.03 of the Revised Code.	2530 2531 2532 2533 2534 2535 2536 2537 2538 2539 2540 2541 2542
(ll) Receipts realized by an out-of-state disaster business from disaster work conducted in this state during a	2543 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 situated 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 section 5747.06 of the Revised Code;	2602 2603
(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and	2604 2605 2606
(c) Any amount the person pays for services performed in this state on its behalf by another.	2607 2608
(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.	2609 2610
(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.	2611 2612 2613
(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.	2614 2615
(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.	2616 2617
(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.	2618 2619 2620 2621 2622 2623 2624 2625
(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.	2626 2627 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 imposed under this chapter.	2630 2631
(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.	2632 2633
(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.	2634 2635
(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:	2636 2637 2638
(1) A person receiving a fee to sell financial instruments;	2639 2640
(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;	2641 2642 2643
(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;	2644 2645
(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;	2646 2647
(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.	2648 2649
(Q) "Received" includes amounts accrued under the accrual method of accounting.	2650 2651
(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section	2652 2653 2654 2655 2656

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

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

Section 2. That existing 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 are hereby repealed.

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