#### As Recommitted to the Senate Ways and Means Committee

## **132nd General Assembly**

Regular Session 2017-2018

Sub. H. B. No. 24

#### **Representative Ginter**

Cosponsors: Representatives Schaffer, Rogers, Cera, Green, Hambley, Retherford, Ryan, Anielski, Antani, Antonio, Arndt, Ashford, Barnes, Boccieri, Boggs, Boyd, Brown, Butler, Carfagna, Celebrezze, Clyde, Craig, Cupp, Edwards, Faber, Fedor, Galonski, Gavarone, Goodman, Greenspan, Hagan, Henne, Hill, Holmes, Householder, Howse, Huffman, Hughes, Ingram, Johnson, Keller, Kent, Kick, Landis, Lanese, Lang, LaTourette, Leland, Lepore-Hagan, Lipps, Manning, McColley, Miller, O'Brien, Patmon, Patterson, Patton, Pelanda, Perales, Ramos, Reece, Reineke, Rezabek, Riedel, Roegner, Romanchuk, Schuring, Sheehy, Sprague, Stein, Strahorn, Sweeney, Thompson, West, Young

Senators Terhar, Beagle, Hackett, Peterson, Wilson

### A BILL

То	amend sections 5709.121, 5709.17, 5735.01,	1
	5735.024, and 5735.04 of the Revised Code to	2
	modify the existing tax exemption for veterans	3
	organizations' property to include property of	4
	certain veterans organizations exempt from	5
	federal taxation under section 501(c)(4) of the	6
	Internal Revenue Code, to exclude from that	7
	exemption property that is not used primarily	8
	for meetings, administration, and the provision	9
	of programs and services to past and present	10
	members of the United States armed forces,	11
	exempt from taxation any property owned by a	12
	nonprofit organization that receives funding	13
	from a county board of developmental	14
	disabilities to provide housing for	15
	developmentally disabled individuals, to make	16

clari	ify	ing	chan	iges	to	the	motor	fuel	tax	law,		17
and t	to	make	an	appı	rqor	riat:	ion.					18

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

Section 1. That sections 5709.121, 5709.17, 5735.01,	19
5735.024, and 5735.04 of the Revised Code be amended to read as	20
follows:	21
Sec. 5709.121. (A) Real property and tangible personal	22
property belonging to a charitable or educational institution or	23
to the state or a political subdivision, shall be considered as	24
used exclusively for charitable or public purposes by such	25
institution, the state, or political subdivision, if it meets	26
one of the following requirements:	27
(1) It is used by such institution, the state, or	28
political subdivision, or by one or more other such	29
institutions, the state, or political subdivisions under a	30
lease, sublease, or other contractual arrangement:	31
(a) As a community or area center in which presentations	32
in music, dramatics, the arts, and related fields are made in	33
order to foster public interest and education therein;	34
(b) As a children's, science, history, or natural history	35
museum that is open to the general public;	36
(c) For other charitable, educational, or public purposes.	37
(2) It is made available under the direction or control of	38
such institution, the state, or political subdivision for use in	39
furtherance of or incidental to its charitable, educational, or	40
public purposes and not with the view to profit.	41
<del>-</del>	

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(3) It is used by an organization described in division	42
(D) of section 5709.12 of the Revised Code. If the organization	43
is a corporation that receives a grant under the Thomas Alva	44
Edison grant program authorized by division (C) of section	45
122.33 of the Revised Code at any time during the tax year,	46
"used," for the purposes of this division, includes holding	47
property for lease or resale to others.	48
(B)(1) Property described in division (A)(1)(a) or (b) of	49
this section shall continue to be considered as used exclusively	50
for charitable or public purposes even if the property is	51
conveyed through one conveyance or a series of conveyances to an	52
entity that is not a charitable or educational institution and	53
is not the state or a political subdivision, provided that all	54
of the following conditions apply with respect to that property:	55
(a) The property was listed as exempt on the county	56
auditor's tax list and duplicate for the county in which it is	57
located for the tax year immediately preceding the year in which	58
the property is conveyed through one conveyance or a series of	59
conveyances;	60
(b) The property is conveyed through one conveyance or a	61
series of conveyances to an entity that does any of the	62
following:	63
(i) Leases at least forty-five per cent of the property,	64
through one lease or a series of leases, to the entity that	65
owned or occupied the property for the tax year immediately	66
preceding the year in which the property is conveyed or to an	67
affiliate of that entity;	68
(ii) Contracts, directly or indirectly to have renovations	69

performed as described in division (B)(1)(d) of this section and

is at least partially owned by a nonprofit organization	71
described in section 501(c)(3) of the Internal Revenue Code that	72
is exempt from taxation under section 501(a) of that code.	73
(c) The property includes improvements that are at least	74
fifty years old;	75
(d) The property is being renovated in connection with a	76
claim for historic preservation tax credits available under	77
federal law;	78
(e) All or a portion of the property continues to be used	79
for the purposes described in division (A)(1)(a) or (b) of this	80
section after its conveyance; and	81
(f) The property is certified by the United States	82
secretary of the interior as a "certified historic structure" or	83
certified as part of a certified historic structure.	84
(2) Notwithstanding section 5715.27 of the Revised Code,	85
an application for exemption from taxation of property described	86
in division (B)(1) of this section may be filed by either the	87
owner of the property or an occupant.	88
(C) For purposes of this section, an institution that	89
meets all of the following requirements is conclusively presumed	90
to be a charitable institution:	91
(1) The institution is a nonprofit corporation or	92
association, no part of the net earnings of which inures to the	93
benefit of any private shareholder or individual;	94
(2) The institution is exempt from federal income taxation	95
under section 501(a) of the Internal Revenue Code;	96
(3) The majority of the institution's board of directors	97
are appointed by the mayor or legislative authority of a	98

municipal corporation or a board of county commissioners, or a	99
combination thereof;	100
	1.01
(4) The primary purpose of the institution is to assist in	101
the development and revitalization of downtown urban areas.	102
(D) For purposes of division (A)(1)(b) of this section,	103
the status of a museum as open to the general public shall be	104
conclusive if the museum is accredited by the American alliance	105
of museums or a successor organization.	106
(E)(1) Qualifying real property owned by an institution	107
that meets all of the following requirements shall be considered	108
as used exclusively for charitable purposes, and the institution	109
shall be considered a charitable institution for purposes of	110
this section and section 5709.12 of the Revised Code:	111
(a) The institution is an organization described under	112
section 501(c)(3) of the Internal Revenue Code and exempt from	113
federal income taxation under section 501(a) of the Internal	114
Revenue Code.	115
(b) The institution's primary purpose is to acquire,	116
develop, lease, or otherwise provide suitable housing to	117
individuals with developmental disabilities.	118
(c) The institution receives at least a portion of its	119
funding from one or more county boards of developmental	120
disabilities to assist in the institution's primary purpose_	121
described in division (E) (1) (b) of this section.	122
(2) As used in division (E) of this section, "qualifying	123
real property" means real property that is used primarily in one	124
of the following manners:	125
	120
(a) The property is used by the institution described in	126

division (E)(1) of this section for the purpose described in	127
division (E)(1)(b) of this section.	128
(b) The property is leased or otherwise provided by the	129
institution described in division (E)(1) of this section to	130
individuals with developmental disabilities and used by those	131
individuals as housing.	132
(c) The property is leased or otherwise provided by the	133
institution described in division (E)(1) of this section to	134
another charitable institution, and that charitable institution	135
uses the property exclusively for charitable purposes.	136
Sec. 5709.17. The following property shall be exempted	137
from taxation:	138
(A) Real estate held or occupied by an association or	139
corporation, organized or incorporated under the laws of this	140
state relative to soldiers' memorial associations or monumental	141
building associations and that, in the opinion of the trustees,	142
directors, or managers thereof, is necessary and proper to carry	143
out the object intended for such association or corporation;	144
(B) Real estate and tangible personal property held or	145
occupied by a <u>qualifying</u> veterans' organization <del>that qualifies</del>	146
for exemption from taxation under section 501(c)(19) or 501(c)	147
(23) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26	148
U.S.C.A. 1, as amended, and is incorporated under the laws of	149
this state or the United States and used primarily for meetings	150
and administration of the qualifying veterans' organization or	151
for providing, on a not-for-profit basis, programs and	152
supportive services to past or present members of the armed	153
forces of the United States and their families, except real	154
estate held by such an organization for the production of rental	155

income in excess of thirty-six thousand dollars in a tax year,	156
before accounting for any cost or expense incurred in the	157
production of such income. For the purposes of this division,	158
rental income includes only income arising directly from renting	159
the real estate to others for consideration.	160
As used in this division, "qualifying veterans'	161
organization" means an organization that is incorporated under	162
the laws of this state or the United States and that meets	163
either of the following requirements:	164
(1) The organization qualifies for exemption from taxation	165
under section 501(c)(19) or 501(c)(23) of the Internal Revenue	166
Code.	167
(2) The organization meets the criteria for exemption	168
under section 501(c)(19) of the Internal Revenue Code and	169
regulations adopted pursuant thereto, but is exempt from	170
taxation under section 501(c)(4) of the Internal Revenue Code.	171
(C) Tangible personal property held by a corporation	172
chartered under 112 Stat. 1335, 36 U.S.C. <del>A.</del> 40701, described in	173
section 501(c)(3) of the Internal Revenue Code, and exempt from	174
taxation under section 501(a) of the Internal Revenue Code shall	175
be exempt from taxation if it is property obtained as described	176
in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407.	177
(D) Real estate held or occupied by a fraternal	178
organization and used primarily for meetings of and the	179
administration of the fraternal organization or for providing,	180
on a not-for-profit basis, educational or health services,	181
except real estate held by such an organization for the	182
production of rental income in excess of thirty-six thousand	183
dollars in a tax year before accounting for any cost or expense	184

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incurred in the production of such income. As used in this	185
division, "rental income" has the same meaning as in division	186
(B) of this section, and "fraternal organization" means a	187
domestic fraternal society, order, or association operating	188
under the lodge, council, or grange system that qualifies for	189
exemption from taxation under section 501(c)(5), 501(c)(8), or	190
501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat.	191
2085, 26 U.S.C. 1, as amended; that provides financial support	192
for charitable purposes, as defined in division (B)(12) of	193
section 5739.02 of the Revised Code; and that operates under a	194
state governing body that has been operating in this state for	195
at least eighty-five years.	196

#### Sec. 5735.01. As used in this chapter:

- (A) "Motor vehicles" includes all vehicles, vessels,

  watercraft, engines, machines, or mechanical contrivances which

  are powered by internal combustion engines or motors.
- (B) "Motor fuel" means gasoline, diesel fuel, kerosene, or 201 any other liquid motor fuel, including, but not limited to, 202 liquid petroleum gas or liquid natural gas, but excluding 203 substances prepackaged and sold in containers of five gallons or 204 less. 205
- (C) "Kerosene" means all grades of kerosene, including,

  but not limited to, the two grades of kerosene, no. 1-K and no.

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  2-K, commonly known as K-1 kerosene and K-2 kerosene,

  respectively, described in the American Society for Testing

  Materials Standard D-3699, in effect on January 1, 1999, and

  aviation grade kerosene.

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- (D) "Diesel fuel" means any liquid fuel capable of use in 212 discrete form or as a blend component in the operation of 213

repair.	243
(G) "Waters within the boundaries of this state" means all	244
streams, lakes, ponds, marshes, water courses, and all other	245
bodies of surface water, natural or artificial, which are	246
situated wholly or partially within this state or within its	247
jurisdiction, except private impounded bodies of water.	248
(H) "Person" includes individuals, partnerships, firms,	249
associations, corporations, receivers, trustees in bankruptcy,	250
estates, joint-stock companies, joint ventures, the state and	251
its political subdivisions, and any combination of persons of	252
any form.	253
(I)(1) "Motor fuel dealer" means any person who satisfies	254
any of the following:	255
(a) The person imports from another state or foreign	256
country or acquires motor fuel by any means into a terminal in	257
this state;	258
(b) The person imports motor fuel from another state or	259
foreign country in bulk lot vehicles for subsequent sale and	260
distribution in this state from bulk lot vehicles;	261
(c) The person refines motor fuel in this state;	262
(d) The person acquires motor fuel from a motor fuel	263
dealer for subsequent sale and distribution by that person in	264
this state from bulk lot vehicles;	265
(e) The person possesses an unrevoked permissive motor	266
fuel dealer's license.	267
(2) Any person who obtains dyed diesel fuel for use other	268
than the operation of motor vehicles upon the public highways or	269
upon waters within the boundaries of this state, but later uses	270

that motor fuel for the operation of motor vehicles upon the	271
public highways or upon waters within the boundaries of this	272
state, is deemed a motor fuel dealer as regards any unpaid motor	273
fuel taxes levied on the motor fuel so used.	274
(J) As used in section 5735.05 of the Revised Code only:	275
(1) With respect to gasoline, "received" or "receipt"	276
shall be construed as follows:	277
(a) Gasoline produced at a refinery in this state or	278
delivered to a terminal in this state is deemed received when it	279
is disbursed through a loading rack at that refinery or	280
terminal;	281
(b) Except as provided in division (J)(1)(a) of this	282
section, gasoline imported into this state or purchased or	283
otherwise acquired in this state by any person is deemed	284
received within this state by that person when the gasoline is	285
withdrawn from the container in which it was transported;	286
(c) Gasoline delivered or disbursed by any means from a	287
terminal directly to another terminal is not deemed received.	288
(2) With respect to motor fuel other than gasoline,	289
"received" or "receipt" means distributed or sold for use or	290
used to generate power for the operation of motor vehicles upon	291
the public highways or upon waters within the boundaries of this	292
state. All diesel fuel that is not dyed diesel fuel, regardless	293
of its use, shall be considered as used to generate power for	294
the operation of motor vehicles upon the public highways or upon	295
waters within the boundaries of this state when the fuel is sold	296
or distributed to a person other than a licensed motor fuel	297
dealer or to a person licensed under section 5735.026 of the	298
Revised Code.	299

(K) Motor fuel used for the operation of licensed motor	300
vehicles employed in the maintenance, construction, or repair of	301
public highways is deemed to be used for the operation of motor	302
vehicles upon the public highways.	303
(L) "Licensed motor fuel dealer" means any dealer	304
possessing an unrevoked motor fuel dealer's license issued by	305
the tax commissioner as provided in section 5735.02 of the	306
Revised Code.	307
(M) "Licensed retail dealer" means any retail dealer	308
possessing an unrevoked retail dealer's license issued by the	309
tax commissioner as provided in section 5735.022 of the Revised	310
Code.	311
(N) "Refinery" means a facility used to produce motor fuel	312
and from which motor fuel may be removed by pipeline, by vessel,	313
or at a rack.	314
(O) "Retail dealer" means any person that sells or	315
distributes motor fuel at a retail service station located in	316
this state.	317
(P) "Retail service station" means a location from which	318
motor fuel is sold to the general public and is dispensed or	319
pumped directly into motor vehicle fuel tanks for consumption.	320
(Q) "Transit bus" means a motor vehicle that is operated	321
for public transit or paratransit service on a regular and	322
continuing basis within the state by or for a county, a	323
municipal corporation, a county transit board pursuant to	324
sections 306.01 to 306.13 of the Revised Code, a regional	325
transit authority pursuant to sections 306.30 to 306.54 of the	326
Revised Code, or a regional transit commission pursuant to	327
sections 306 80 to 306 90 of the Revised Code Public transit or	328

paratransit service may include fixed route, demand-responsive,	329
or subscription bus service transportation, but does not include	330
shared-ride taxi service, carpools, vanpools, jitney service,	331
school bus transportation, or charter or sightseeing services.	332
(R) "Export" means to obtain motor fuel in this state for	333
sale or other distribution outside this state. For the purposes	334
of this division, motor fuel delivered outside this state by or	335
for the seller constitutes an export by the seller, and motor	336
fuel delivered outside this state by or for the purchaser	337
constitutes an export by the purchaser.	338
(S) "Import" means motor fuel delivered into this state	339
from outside this state. Motor fuel delivered into this state	340
from outside this state by or for the seller constitutes an	341
import by the seller. Motor fuel delivered into this state from	342
outside this state by or for the purchaser constitutes an import	343
by the purchaser.	344
(T) "Terminal" means a motor fuel storage or distribution	345
facility that has been assigned a terminal control number by the	346
internal revenue service, that is supplied by pipeline or marine	347
vessel, and from which motor fuel may be removed at a rack.	348
(U) "Terminal operator" means a person that owns,	349
operates, or otherwise controls a terminal Consumer means a	350
buyer of motor fuel for purposes other than resale in any form.	351
(V) "Bulk lot vehicle" means railroad tank cars, transport	352
tank trucks, and tank wagons with a capacity of at least 1,400	353
gallons.	354
(W) "Licensed permissive motor fuel dealer" means any	355
person possessing an unrevoked permissive motor fuel dealer's	356
license issued by the tax commissioner under section 5735.021 of	357

the Revised Code.	358
(X) "Licensed terminal operator" means any person	359
possessing an unrevoked terminal operator's license issued by	360
the tax commissioner under section 5735.026 of the Revised Code.	361
(Y) "Licensed exporter" means any person possessing an	362
unrevoked exporter's license issued by the tax commissioner	363
under section 5735.026 of the Revised Code.	364
(Z) "Dyed diesel fuel" means diesel fuel satisfying the	365
requirements of 26 U.S.C. 4082.	366
(AA) "Gross gallons" means U.S. gallons without	367
temperature or barometric adjustments.	368
(BB) "Bulk plant" means a motor fuel storage and	369
distribution facility, other than a terminal, from which motor	370
fuel may be withdrawn by railroad car, transport trucks, tank	371
wagons, or marine vessels.	372
(CC) "Transporter" means either of the following:	373
(1) A railroad company, street, suburban, or interurban	374
railroad company, a pipeline company, or water transportation	375
company that transports motor fuel, either in interstate or	376
intrastate commerce, to points in this state;	377
(2) A person that transports motor fuel by any manner to a	378
point in this state.	379
(DD) "Exporter" means either of the following:	380
(1) A person that is licensed to collect and remit motor	381
fuel taxes in a specified state of destination;	382
(2) A person that is statutorily prohibited from obtaining	383
a license to collect and remit motor fuel taxes in a specified	384

state of destination, and is licensed to sell or distribute tax-	385
paid motor fuel in the specified state of destination.	386
(EE) "Report" means a report or return required to be	387
filed under this chapter and may be used interchangeably with,	388
and for all purposes has the same meaning as, "return."	389
(FF) "Aviation fuel" means aviation gasoline or aviation	390
grade kerosene or any other fuel that is used in aircraft.	391
(GG) "Aviation gasoline" means fuel specifically	392
compounded for use in reciprocating aircraft engines.	393
(HH) "Aviation grade kerosene" means any kerosene type jet	394
fuel covered by ASTM Specification D1655 or meeting	395
specification MIL-DTL-5624T (Grade JP-5) or MTL-DTL-83133E	396
(Grade JP-8).	397
(II) "Aviation fuel dealer" means a person that acquires	398
aviation fuel from a supplier or from another aviation fuel	399
dealer for subsequent sale to a person other than an end user.	400
Sec. 5735.024. (A) No aviation fuel dealer shall purchase	401
aviation fuel for <pre>consumption_resale_in this state without first_</pre>	402
being registered licensed as an aviation fuel dealer by the tax	403
commissioner to engage in such activities.	404
(B) The failure to register with the commissioner as an	405
aviation fuel dealer does not relieve a person from the	406
requirement to file returns under this title.	407
(C) No person shall make a false or fraudulent statement	408
on the application required by this section.	409
(D) Each aviation fuel dealer shall file a report with the	410
commissioner on or before the twenty third last day of each	411
month for the preceding month. The commissioner shall adopt	412

investigation, finds that the person to whom the license has

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been issued is no longer engaged in the receipt, use, or sale of	443
motor fuel as a motor fuel dealer, and has not been so engaged	444
for the period of six months prior to the cancellation. No	445
license shall be canceled upon the request of any motor fuel	446
dealer unless the motor fuel dealer, prior to the date of	447
cancellation, has paid to the state all motor fuel taxes payable	448
or assumed by the motor fuel dealer under the laws of the state,	449
together with all penalties and fines accruing by reason of any	450
failure of the motor fuel dealer to make accurate reports of	451
receipts of motor fuel or to pay the taxes and penalties.	452
If the license of any motor fuel dealer is canceled by the	453
commissioner as provided in this section, and if the motor fuel	454
dealer has paid to the state all motor fuel taxes due and	455
payable by the motor fuel dealer under the laws of the state, or	456
assumed by the motor fuel dealer upon the receipt, sale, or use	457
of motor fuel, together with all penalties accruing by reason of	458
any failure on the part of the motor fuel dealer to make	459
accurate reports or to pay the tax and penalties, then the	460
commissioner shall cancel and surrender the bond theretofore	461
filed by the motor fuel dealer.	462
Section 2. That existing sections 5709.121, 5709.17,	463
5735.01, 5735.024, and 5735.04 of the Revised Code are hereby	464
repealed.	465
Section 3. That the amendment by this act of section	466
5709.121 of the Revised Code applies to tax year 2018 and	467
thereafter and the tax years at issue in any application for	468
exemption from taxation or any appeal from such an application	469
pending before the Tax Commissioner, the Board of Tax Appeals,	470
any Court of Common Pleas or Court of Appeals, or the Supreme	471
a litar at a cat and	

Court on the effective date of this section and to the property

As Recommittee to the Senate Ways and Means Committee	
that is the subject of any such application or appeal. That	473
amendment is remedial in nature and the purpose thereof is to	474
clarify the intent of the General Assembly that real property	475
described in division (E) of section 5709.121 of the Revised	476
Code, as amended by this act, is exempt from taxation.	477
That the amendment by this act of section 5709.17 of the	478
Revised Code applies to tax years ending on or after the	479
effective date of this act.	480
Section 4. All items in this section are hereby	481
appropriated as designated out of any moneys in the state	482
treasury to the credit of the designated fund. The	483
appropriations made in this act are for the biennium ending June	484
30, 2020. The appropriations made in this act are in addition to	485
any other appropriations made for the FY 2019-FY 2020 biennium.	486
COT CENTRAL OHIO TECHNICAL COLLEGE	487
Higher Education Improvement Fund (Fund 7034)	488
C36923 Licking County Big Brothers Big Sisters \$750,000	489
Project	490
TOTAL Higher Education Improvement Fund \$750,000	491
TOTAL ALL FUNDS \$750,000	492
Section 5. Within the limits set forth in this act, the	493
Director of Budget and Management shall establish accounts	494
indicating the source and amount of funds for each appropriation	495
made in this act, and shall determine the form and manner in	496
which appropriation accounts shall be maintained. Expenditures	497
from appropriations contained in this act shall be accounted for	498
as though made in the capital appropriations act of the 132nd	499
General Assembly.	500

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The appropriations made in this act are subject to all	501
provisions of the capital appropriations act of the 132nd	502
General Assembly that are generally applicable to such	503
appropriations.	504