

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

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. H. B. No. 23**

**Representative Amstutz  
Cosponsor: Representative Cera**

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**A BILL**

To amend sections 131.44, 1509.73, 5741.01, 1  
5741.03, and 5741.032 and to enact section 2  
1509.79 of the Revised Code to use a portion of 3  
any income from oil and gas leases on state land 4  
to fund temporary income tax reductions and 5  
local government capital improvement projects, 6  
to modify the law governing the use of new Ohio 7  
use tax collections from remote sellers for 8  
income tax reductions, and to require the 9  
Director of Budget and Management to recommend 10  
whether or not income tax rates should be 11  
permanently reduced after the Director certifies 12  
a temporary rate reduction resulting from the 13  
accrual of money in the Income Tax Reduction 14  
Fund. 15

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

**Section 1.** That sections 131.44, 1509.73, 5741.01, 16  
5741.03, and 5741.032 be amended and section 1509.79 of the 17  
Revised Code be enacted to read as follows: 18

**Sec. 131.44.** (A) As used in this section: 19

- (1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance. 20  
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- (2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund. 22  
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- (3) "Required year-end balance" means the sum of the following: 26  
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- (a) Five per cent of the general revenue fund revenues for the preceding fiscal year; 28  
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- (b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year; 30  
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- (c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year; 33  
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- (d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed; 38  
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- (e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code. 42  
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(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

(b) Transfers of appropriations from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available to the director of budget and management.

(B) (1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on the preceding thirtieth day of June and transfer from the general revenue fund, to the extent of the unobligated, unencumbered balance on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year, the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal five per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

(2) Not later than the thirty-first day of July each year, 77  
the director shall determine the percentage that the balance in 78  
the income tax reduction fund is of the amount of revenue that 79  
the director estimates will be received from the tax levied 80  
under section 5747.02 of the Revised Code in the current fiscal 81  
year without regard to any reduction under division (B) of that 82  
section. If that percentage exceeds thirty-five one hundredths 83  
of one per cent, the director shall certify the percentage to 84  
the tax commissioner not later than the thirty-first day of 85  
July. 86

(3) Not later than fifteen days after the director makes 87  
the certification described in division (B) (2) of this section, 88  
the director shall issue a report to the governor, speaker of 89  
the house of representatives, and president of the senate. The 90  
report shall include both of the following: 91

(a) The amount of revenue credited to the income tax 92  
reduction fund in the preceding fiscal year under division (B) 93  
(1) of this section, division (J) of section 1509.73 of the 94  
Revised Code, and division (C) (2) of section 5741.03 of the 95  
Revised Code, arranged according to each source of revenue; 96

(b) The director's recommendations whether and to what 97  
extent the rates of the tax levied under section 5747.02 of the 98  
Revised Code may be proportionately and permanently reduced 99  
based on the amounts credited to the income tax reduction fund 100  
reported under division (B) (3) (a) of this section. 101

(C) The director of budget and management shall transfer 102  
money in the income tax reduction fund to the general revenue 103  
fund, the local government fund, and the public library fund as 104  
necessary to offset revenue reductions resulting from the 105  
reductions in taxes required under division (B) of section 106

5747.02 of the Revised Code in the respective amounts and 107  
percentages prescribed by division (A) of section 5747.03 and 108  
divisions (B) and (C) of section 131.51 of the Revised Code as 109  
if the amount transferred had been collected as taxes under 110  
Chapter 5747. of the Revised Code. If no reductions in taxes are 111  
made under that division that affect revenue received in the 112  
current fiscal year, the director shall not transfer money from 113  
the income tax reduction fund to the general revenue fund, the 114  
local government fund, and the public library fund. 115

**Sec. 1509.73.** (A) (1) ~~Beginning on the effective date of~~ 116  
~~this section~~ September 30, 2011, and ending on the effective 117  
date of the rules adopted under section 1509.74 of the Revised 118  
Code, a state agency, in consultation with the oil and gas 119  
leasing commission, may lease a formation within a parcel of 120  
land that is owned or controlled by the state agency for the 121  
exploration for and development and production of oil or natural 122  
gas. The state agency shall establish bid fees, signing fees, 123  
rentals, and at least a one-eighth landowner royalty. On and 124  
after the effective date of the rules adopted under section 125  
1509.74 of the Revised Code, a formation within a parcel of land 126  
that is owned or controlled by a state agency may be leased for 127  
the exploration for and development and production of oil or 128  
natural gas only in accordance with divisions (A) (2) to (H) of 129  
this section and those rules. 130

(2) Not earlier than two hundred seventy days after ~~the~~ 131  
~~effective date of this section~~ September 30, 2011, a person that 132  
is an owner and that is interested in leasing a formation within 133  
a parcel of land that is owned or controlled by a state agency 134  
for the exploration for and the development and production of 135  
oil or natural gas may submit to the oil and gas leasing 136  
commission a nomination that identifies the parcel of land and 137

the county and township or municipal corporation in which the 138  
parcel is located. A person submitting a nomination shall submit 139  
it in the manner and form established in rules adopted under 140  
section 1509.74 of the Revised Code and shall include with the 141  
nomination both of the following: 142

(a) The information required by those rules; 143

(b) The nomination fee established in those rules. 144

(B) (1) Not less than thirty days, but not more than one 145  
hundred twenty days following the receipt of a nomination of a 146  
parcel of land, the commission shall conduct a meeting for the 147  
purpose of determining whether to approve or disapprove the 148  
nomination for the purpose of leasing a formation within the 149  
parcel of land that is identified in the nomination. The 150  
commission also shall review the nomination of the parcel of 151  
land and determine if the parcel of land has been classified 152  
under section 1509.72 of the Revised Code. If the parcel of land 153  
that is the subject of the nomination has not been classified, 154  
the commission immediately shall send a copy of the nomination 155  
to the state agency that owns or controls the parcel that is the 156  
subject of the nomination. Not later than fifteen days after 157  
receipt of a copy of the nomination, the state agency shall 158  
classify the parcel of land as a class 1, class 2, class 3, or 159  
class 4 property and submit the classification to the 160  
commission. On receipt of the state agency's classification of 161  
the parcel of land, the commission shall provide the department 162  
of natural resources the information necessary for the 163  
department to comply with divisions (C) and (D) of section 164  
1509.72 of the Revised Code. 165

After a parcel of land that is the subject of a nomination 166  
has been classified under section 1509.72 of the Revised Code or 167

division (B)(1) of this section, as applicable, the commission 168  
shall approve or disapprove the nomination. In making its 169  
decision to approve or disapprove the nomination of the parcel 170  
of land, the commission shall consider all of the following: 171

(a) The economic benefits, including the potential income 172  
from an oil or natural gas operation, that would result if the 173  
lease of a formation that is the subject of the nomination were 174  
approved; 175

(b) Whether the proposed oil or gas operation is 176  
compatible with the current uses of the parcel of land that is 177  
the subject of the nomination; 178

(c) The environmental impact that would result if the 179  
lease of a formation that is the subject of the nomination were 180  
approved; 181

(d) Any potential adverse geological impact that would 182  
result if the lease of a formation that is the subject of the 183  
nomination were approved; 184

(e) Any potential impact to visitors or users of a parcel 185  
of land that is the subject of the nomination; 186

(f) Any potential impact to the operations or equipment of 187  
a state agency that is a state university or college if the 188  
lease of a formation within a parcel of land owned or controlled 189  
by the university or college that is the subject of the 190  
nomination were executed; 191

(g) Any objections to the nomination submitted to the 192  
commission by the state agency that owns or controls the land on 193  
which the proposed oil or natural gas operation would take 194  
place; 195

(h) Any comments or objections to the nomination submitted to the commission by residents of this state or other users of the parcel of land that is the subject of the nomination;	196 197 198
(i) Any other factors that the commission establishes in rules adopted under section 1509.74 of the Revised Code.	199 200
(2) The commission shall disapprove a nomination of a parcel of land that is a class 3 property. The commission shall send notice of the disapproval by certified mail to the person that submitted the nomination.	201 202 203 204
(3) Prior to making its decision to approve or disapprove a nomination, the commission shall notify the state agency that owns or controls the land on which the oil or gas operation would take place.	205 206 207 208
(4) The commission shall approve or disapprove a nomination not later than two calendar quarters following the receipt of the nomination. Notice of the decision of the commission shall be sent by certified mail to the person that submitted the nomination.	209 210 211 212 213
(5) If the commission approves a nomination, the commission shall notify the state agency that owns or controls the parcel of land that is the subject of a nomination of the commission's approval of the nomination. The notification shall request the state agency to submit to the commission special terms and conditions that will apply to the lease of a formation within the parcel of land because of specific conditions related to the parcel of land. The state agency shall submit the special terms and conditions not later than sixty days after receipt of a notice from the commission.	214 215 216 217 218 219 220 221 222 223
(6) If the commission approves a nomination for a parcel	224



of land that is a class 1 property, the commission shall offer 225  
for lease each formation that is within the parcel of land. If 226  
the commission approves a nomination for a parcel of land that 227  
is a class 2 or class 4 property, the commission shall not offer 228  
for lease any formation that is within the parcel of land unless 229  
the state agency that owns or controls the parcel of land 230  
notifies the commission that a formation or formations that are 231  
within the parcel of land may be offered for lease. 232

(C) Each calendar quarter, the commission shall proceed to 233  
advertise for bids for a lease for a formation within a parcel 234  
of land that was the subject of a nomination approved during the 235  
previous calendar quarter that is a class 1 property or that is 236  
a class 2 or class 4 property for which the commission has 237  
received notice from the state agency that owns or controls the 238  
parcel of land under division (B) (6) of this section that a 239  
formation or formations that are within the parcel of land may 240  
be offered for lease. The advertisement shall be provided to the 241  
department of natural resources, and the department shall 242  
publish the advertisement on its web site for a period of time 243  
established by the commission. The advertisement shall include 244  
all of the following: 245

(1) The procedure for the submission of a bid to enter 246  
into a lease for a formation within a parcel of land; 247

(2) A statement that a standard lease form that is 248  
consistent with the practices of the oil and natural gas 249  
industries will be used for the lease of a formation within the 250  
parcel of land; 251

(3) A copy of the standard lease form that will be used 252  
for the lease of a formation within the parcel of land; 253

(4) Special terms and conditions, if applicable, that 254  
apply to the lease because of specific conditions related to the 255  
parcel of land; 256

(5) The amount of the bid fee that is required to be 257  
submitted with a bid; 258

(6) Any other information that the commission considers 259  
pertinent to the advertisement for bids. 260

(D) A person submitting a bid to enter into a lease under 261  
this section shall pay a bid fee established in rules adopted 262  
under section 1509.74 of the Revised Code. 263

(E) In order to encourage the submission of bids and the 264  
responsible and reasonable development of the state's natural 265  
resources, the information that is contained in a bid submitted 266  
to the commission under this section shall be confidential and 267  
shall not be disclosed before a person is selected under 268  
division (F) of this section unless the commission determines 269  
otherwise. 270

(F) The commission shall establish a deadline for the 271  
submission of bids for each lease regarding a particular parcel 272  
of land and shall notify the department of the deadline. The 273  
department shall post the deadline for the submission of bids 274  
for each lease on the department's web site. A person shall 275  
submit a bid in accordance with the procedures and requirements 276  
established by the commission in rules adopted under section 277  
1509.74 of the Revised Code. 278

The commission shall select the person who submits the 279  
highest and best bid for each formation within that parcel of 280  
land, taking into account the financial responsibility of the 281  
prospective lessee and the ability of the prospective lessee to 282

perform its obligations under the lease. After the commission 283  
selects a person, the commission shall notify the applicable 284  
state agency and send the person's bid to the agency. The state 285  
agency shall enter into a lease with the person selected by the 286  
commission. 287

(G) (1) ~~Except as otherwise provided in division (G) (2) of~~ 288  
~~this section, One-third of~~ all money received by a state agency 289  
from signing fees, rentals, and royalty payments for leases 290  
entered into under this section, except for leases described in 291  
division (G) (2) of this section, shall be paid by the state 292  
agency into the state treasury to the credit of the state land 293  
royalty fund created in section 131.50 of the Revised Code. 294

(2) ~~Money One-third of all money~~ received by a state 295  
agency from signing fees, rentals, and royalty payments for 296  
leases entered into under this section on land owned or 297  
controlled by the division of forestry, wildlife, or parks and 298  
recreation in the department of natural resources shall be 299  
deposited into one of the following funds, as applicable: 300

(a) The forestry mineral royalties fund created in section 301  
1503.012 of the Revised Code if the lease pertains to land owned 302  
or controlled by the division of forestry; 303

(b) The wildlife habitat fund created in section 1531.33 304  
of the Revised Code if the lease pertains to land owned or 305  
controlled by the division of wildlife; 306

(c) The parks mineral royalties fund created in section 307  
1541.26 of the Revised Code if the lease pertains to land owned 308  
or controlled by the division of parks and recreation. 309

(3) One-third of all money received by a state agency from 310  
signing fees, rentals, and royalty payments for leases entered 311

into under this section shall be paid by the state agency into 312  
the general revenue fund and one-third of such money shall be 313  
paid by the state agency into the local royalty fund created in 314  
section 1509.79 of the Revised Code. 315

(H) All money received from nomination fees and bid fees 316  
shall be paid into the state treasury to the credit of the oil 317  
and gas leasing commission administration fund created in 318  
section 1509.75 of the Revised Code. 319

(I) Notwithstanding any other provision of this section to 320  
the contrary, a nature preserve as defined in section 1517.01 of 321  
the Revised Code that is owned or controlled by a state agency 322  
shall not be nominated or leased under this section for the 323  
purpose of exploring for and developing and producing oil and 324  
natural gas resources. 325

(J) Not later than the last day of each January and June, 326  
the director of budget and management shall transfer from the 327  
general revenue fund to the income tax reduction fund an amount 328  
equal to the amount of money deposited into the general revenue 329  
fund under division (G) (3) of this section during the six-month 330  
period ending on the preceding last day of November and of May, 331  
respectively. Amounts transferred to the income tax reduction 332  
fund under this division in a fiscal year shall be included in 333  
the determination of the percentage under division (B) (2) of 334  
section 131.44 of the Revised Code required to be made by the 335  
thirty-first day of July of the ensuing fiscal year. 336

**Sec. 1509.79.** (A) As used in this section: 337

(1) "Subdivision" means a municipal corporation or 338  
township. 339

(2) "Affected county" means a county in which a parcel is 340

located from which a state agency receives money from a lease 341  
entered into under section 1509.73 of the Revised Code. 342

(3) "Capital improvement" means the acquisition, 343  
construction, reconstruction, expansion, improvement, 344  
maintenance, planning, and equipping of roads and bridges, waste 345  
water treatment systems, water supply systems, solid waste 346  
disposal facilities, and storm water and sanitary collection, 347  
storage, and treatment facilities, including real property, 348  
interests in real property, buildings, facilities, fixtures, and 349  
equipment, related or incidental to those roads, bridges, 350  
systems, or facilities. "Capital improvement" includes the 351  
acquisition, improvement, maintenance, or equipping of service 352  
vehicles, including those vehicles used for highway construction 353  
and maintenance, for public safety purposes, or to maintain 354  
public parks or recreation areas. 355

(B) On or before each date listed in the schedule 356  
prescribed by the director of budget and management under 357  
division (C) (4) of this section, the director of transportation 358  
shall certify to the director of budget and management, for each 359  
affected county and each subdivision located in that county, the 360  
fraction obtained by dividing the number of centerline miles of 361  
public highways, roads, and streets located in and maintained by 362  
the affected county or subdivision by the aggregate sum of 363  
centerline miles of public highways, roads, and streets located 364  
in and maintained by the affected county and each of those 365  
subdivisions. 366

(C) (1) There is hereby created in the state treasury the 367  
local royalty fund, which shall consist of money credited to the 368  
fund under division (G) of section 1509.73 of the Revised Code. 369

(2) The director of budget and management shall calculate 370

for each affected county, on or before each date listed in the 371  
schedule prescribed by the director under division (C) (4) of 372  
this section, an amount equal to eighty-five per cent of the 373  
portion of the current balance of the local royalty fund 374  
attributed to leases entered into under section 1509.73 of the 375  
Revised Code on parcels located in that county. 376

(3) The director of budget and management shall make 377  
payments from the local royalty fund as follows: 378

(a) To each affected county and each subdivision located 379  
in an affected county in an amount equal to the following: 380

(i) Fifty per cent of the amount calculated in division 381  
(C) (2) of this section for that affected county multiplied by a 382  
fraction, the numerator of which is the population of the 383  
affected county or subdivision, and the denominator of which is 384  
the aggregate sum of the population of the affected county and 385  
each subdivision located in that county; 386

(ii) Fifty per cent of the amount calculated in division 387  
(C) (2) of this section for that affected county multiplied by 388  
the fraction most recently certified for that affected county or 389  
subdivision to the director under division (B) of this section. 390

(b) To each subdivision in which a leased parcel is 391  
located, an amount equal to the balance in the local royalty 392  
fund after accounting for payments under division (C) (3) (a) of 393  
this section multiplied by a fraction, the numerator of which is 394  
the portion of the balance in the local royalty fund, before 395  
accounting for payments under division (C) (3) (a) of this 396  
section, attributable to leases of parcels located in that 397  
subdivision under section 1509.73 of the Revised Code, and the 398  
denominator of which is that portion of the balance in the fund 399

before accounting for such payments. 400

(4) The director shall make payments under division (C) (3) 401  
of this section on the dates and at the frequency prescribed by 402  
the director. The office of budget and management shall post a 403  
schedule of these payment dates on the office's web site. 404

(D) A county or subdivision shall deposit money received 405  
under division (C) (3) of this section in a special fund created 406  
in the county's or subdivision's treasury. The county or 407  
subdivision shall use that money exclusively to pay the costs of 408  
capital improvements. 409

**Sec. 5741.01.** As used in this chapter: 410

(A) "Person" includes individuals, receivers, assignees, 411  
trustees in bankruptcy, estates, firms, partnerships, 412  
associations, joint-stock companies, joint ventures, clubs, 413  
societies, corporations, business trusts, governments, and 414  
combinations of individuals of any form. 415

(B) "Storage" means and includes any keeping or retention 416  
in this state for use or other consumption in this state. 417

(C) "Use" means and includes the exercise of any right or 418  
power incidental to the ownership of the thing used. A thing is 419  
also "used" in this state if its consumer gives or otherwise 420  
distributes it, without charge, to recipients in this state. 421

(D) "Purchase" means acquired or received for a 422  
consideration, whether such acquisition or receipt was effected 423  
by a transfer of title, or of possession, or of both, or a 424  
license to use or consume; whether such transfer was absolute or 425  
conditional, and by whatever means the transfer was effected; 426  
and whether the consideration was money, credit, barter, or 427  
exchange. Purchase includes production, even though the article 428

produced was used, stored, or consumed by the producer. The 429  
transfer of copyrighted motion picture films for exhibition 430  
purposes is not a purchase, except such films as are used solely 431  
for advertising purposes. 432

(E) "Seller" means the person from whom a purchase is 433  
made, and includes every person engaged in this state or 434  
elsewhere in the business of selling tangible personal property 435  
or providing a service for storage, use, or other consumption or 436  
benefit in this state; and when, in the opinion of the tax 437  
commissioner, it is necessary for the efficient administration 438  
of this chapter, to regard any salesperson, representative, 439  
peddler, or canvasser as the agent of a dealer, distributor, 440  
supervisor, or employer under whom the person operates, or from 441  
whom the person obtains tangible personal property, sold by the 442  
person for storage, use, or other consumption in this state, 443  
irrespective of whether or not the person is making such sales 444  
on the person's own behalf, or on behalf of such dealer, 445  
distributor, supervisor, or employer, the commissioner may 446  
regard the person as such agent, and may regard such dealer, 447  
distributor, supervisor, or employer as the seller. "Seller" 448  
does not include any person to the extent the person provides a 449  
communications medium, such as, but not limited to, newspapers, 450  
magazines, radio, television, or cable television, by means of 451  
which sellers solicit purchases of their goods or services. 452

(F) "Consumer" means any person who has purchased tangible 453  
personal property or has been provided a service for storage, 454  
use, or other consumption or benefit in this state. "Consumer" 455  
does not include a person who receives, without charge, tangible 456  
personal property or a service. 457

A person who performs a facility management or similar 458



service contract for a contractee is a consumer of all tangible 459  
personal property and services purchased for use in connection 460  
with the performance of such contract, regardless of whether 461  
title to any such property vests in the contractee. The purchase 462  
of such property and services is not subject to the exception 463  
for resale under division (E) of section 5739.01 of the Revised 464  
Code. 465

(G) (1) "Price," except as provided in divisions (G) (2) to 466  
(6) of this section, has the same meaning as in division (H) (1) 467  
of section 5739.01 of the Revised Code. 468

(2) In the case of watercraft, outboard motors, or new 469  
motor vehicles, "price" has the same meaning as in divisions (H) 470  
(2) and (3) of section 5739.01 of the Revised Code. 471

(3) In the case of a nonresident business consumer that 472  
purchases and uses tangible personal property outside this state 473  
and subsequently temporarily stores, uses, or otherwise consumes 474  
such tangible personal property in the conduct of business in 475  
this state, the consumer or the tax commissioner may determine 476  
the price based on the value of the temporary storage, use, or 477  
other consumption, in lieu of determining the price pursuant to 478  
division (G) (1) of this section. A price determination made by 479  
the consumer is subject to review and redetermination by the 480  
commissioner. 481

(4) In the case of tangible personal property held in this 482  
state as inventory for sale or lease, and that is temporarily 483  
stored, used, or otherwise consumed in a taxable manner, the 484  
price is the value of the temporary use. A price determination 485  
made by the consumer is subject to review and redetermination by 486  
the commissioner. 487

(5) In the case of tangible personal property originally 488  
purchased and used by the consumer outside this state, and that 489  
becomes permanently stored, used, or otherwise consumed in this 490  
state more than six months after its acquisition by the 491  
consumer, the consumer or the commissioner may determine the 492  
price based on the current value of such tangible personal 493  
property, in lieu of determining the price pursuant to division 494  
(G) (1) of this section. A price determination made by the 495  
consumer is subject to review and redetermination by the 496  
commissioner. 497

(6) If a consumer produces tangible personal property for 498  
sale and removes that property from inventory for the consumer's 499  
own use, the price is the produced cost of that tangible 500  
personal property. 501

(H) "Nexus with this state" means that the seller engages 502  
in continuous and widespread solicitation of purchases from 503  
residents of this state or otherwise purposefully directs its 504  
business activities at residents of this state. 505

(I) "Substantial nexus with this state" means that the 506  
seller has sufficient contact with this state, in accordance 507  
with Section 8 of Article I of the Constitution of the United 508  
States, to allow the state to require the seller to collect and 509  
remit use tax on sales of tangible personal property or services 510  
made to consumers in this state. "Substantial nexus with this 511  
state" exists when the seller does any of the following: 512

(1) Maintains a place of business within this state, 513  
whether operated by employees or agents of the seller, by a 514  
member of an affiliated group, as defined in division (B) (3) (e) 515  
of section 5739.01 of the Revised Code, of which the seller is a 516  
member, or by a franchisee using a trade name of the seller; 517

(2) Regularly has employees, agents, representatives, 518  
solicitors, installers, repairmen, salesmen, or other 519  
individuals in this state for the purpose of conducting the 520  
business of the seller; 521

(3) Uses a person in this state for the purpose of 522  
receiving or processing orders of the seller's goods or 523  
services; 524

(4) Makes regular deliveries of tangible personal property 525  
into this state by means other than common carrier; 526

(5) Has membership in an affiliated group, as described in 527  
division (B) (3) (e) of section 5739.01 of the Revised Code, at 528  
least one other member of which has substantial nexus with this 529  
state; 530

(6) Owns tangible personal property that is rented or 531  
leased to a consumer in this state, or offers tangible personal 532  
property, on approval, to consumers in this state; 533

(7) Except as provided in section 5703.65 of the Revised 534  
Code, is registered with the secretary of state to do business 535  
in this state or is registered or licensed by any state agency, 536  
board, or commission to transact business in this state or to 537  
make sales to persons in this state; 538

(8) Has any other contact with this state that would allow 539  
this state to require the seller to collect and remit use tax 540  
under Section 8 of Article I of the Constitution of the United 541  
States. 542

(J) "Fiscal officer" means, with respect to a regional 543  
transit authority, the secretary-treasurer thereof, and with 544  
respect to a county which is a transit authority, the fiscal 545  
officer of the county transit board appointed pursuant to 546

section 306.03 of the Revised Code or, if the board of county  
commissioners operates the county transit system, the county  
auditor.

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

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

(M) "Providing a service" has the same meaning as in  
~~division (X) of~~ section 5739.01 of the Revised Code.

(N) "Other consumption" includes receiving the benefits of  
a service.

(O) "Lease" or "rental" has the same meaning as in  
~~division (UU) of~~ section 5739.01 of the Revised Code.

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

(Q) "Remote sale" means a sale for which the seller could not be legally required to pay, collect, or remit a tax imposed under this chapter or Chapter 5739. of the Revised Code, unless otherwise provided by the laws of the United States.

(R) "Remote seller" means a seller ~~that~~ to which all of the following apply:

(1) The seller makes remote sales to one or more consumers;

(2) The seller lacks a substantial nexus with this state and would not have been required to pay, collect, or remit a tax under this chapter or Chapter 5739. of the Revised Code under the law as it existed on the effective date of H.B. 23 of the 131st general assembly;

(3) Unless the seller is a remote small seller, the seller is currently required to pay, collect, or remit a tax under this chapter or Chapter 5739. of the Revised Code on remote sales pursuant to federal legislation authorizing states to require sellers that lack a substantial nexus with the state to pay, collect, or remit sales and use tax;

(4) The seller did not, before the effective date of such federal legislation, voluntarily register with the tax commissioner under division (B) of section 5741.17 of the Revised Code.

(S) "Remote small seller" means a remote seller that has gross annual receipts from remote sales in the United States not exceeding one million dollars for the preceding calendar year. For the purposes of determining whether a person is a small remote seller, the sales of all persons related within the meaning of subsection (b) or (c) of section 267 or section

707(b) (1) of the Internal Revenue Code shall be aggregated, and 605  
persons with one or more ownership relationships shall be 606  
aggregated if those relationships were designed with the 607  
principal purpose to qualify as a remote small seller. 608

**Sec. 5741.03.** (A) One hundred per cent of all money 609  
deposited into the state treasury under sections 5741.01 to 610  
5741.22 of the Revised Code that is not required to be 611  
distributed as provided in division (B) of this section shall be 612  
credited to the general revenue fund. 613

(B) In any case where any county or transit authority has 614  
levied a tax or taxes pursuant to section 5741.021, 5741.022, or 615  
5741.023 of the Revised Code, the tax commissioner shall, within 616  
forty-five days after the end of each month, determine and 617  
certify to the director of budget and management the amount of 618  
the proceeds of such tax or taxes from billings and assessments 619  
received during that month, or shown on tax returns or reports 620  
filed during that month, to be returned to the county or transit 621  
authority levying the tax or taxes, which amounts shall be 622  
determined in the manner provided in section 5739.21 of the 623  
Revised Code. The director of budget and management shall 624  
transfer, from the general revenue fund, to the permissive tax 625  
distribution fund created by division (B) (1) of section 4301.423 626  
of the Revised Code and to the local sales tax administrative 627  
fund created by division (C) of section 5739.21 of the Revised 628  
Code, the amounts certified by the tax commissioner. The tax 629  
commissioner shall then, on or before the twentieth day of the 630  
month in which such certification is made, provide for payment 631  
of such respective amounts to the county treasurer or to the 632  
fiscal officer of the transit authority levying the tax or 633  
taxes. The amount transferred to the local sales tax 634  
administrative fund is for use by the tax commissioner in 635

defraying costs the commissioner incurs in administering such 636  
taxes levied by a county or transit authority. 637

(C) (1) Not later than the first day of each January and ~~of~~ 638  
~~July each calendar year beginning July 1, 2015~~following the date 639  
remote sellers are first required to pay, collect, or remit a 640  
tax under this chapter, the tax commissioner and the director of 641  
budget and management shall jointly determine the amount of tax 642  
imposed by section 5741.02 of the Revised Code and remitted 643  
under this chapter by remote sellers during the six-month period 644  
ending on the preceding last day of November and of May, 645  
respectively, reduced by ~~any such tax remitted by sellers~~ 646  
~~pursuant to an agreement entered into under section 5740.03 of~~ 647  
~~the Revised Code during the six month period and by any refunds~~ 648  
issued during the six-month period to remote sellers from the 649  
tax refund fund on account of that tax. 650

(2) Not later than that ~~first~~ last day of each January and 651  
~~of July of the calendar year beginning July 1, 2015~~June 652  
following the date remote sellers are first required to pay, 653  
collect, or remit a tax under this chapter, the director of 654  
budget and management shall transfer from the general revenue 655  
fund to the income tax reduction fund the amount determined 656  
under division (C) (1) of this section, ~~less one half of the~~ 657  
~~amount of that tax remitted during fiscal year 2013 by remote~~ 658  
~~sellers that voluntarily registered under section 5741.17 of the~~ 659  
~~Revised Code. Amounts transferred to the income tax reduction~~ 660  
fund under this ~~section~~ division in a fiscal year shall be 661  
included in the determination of the percentage under division 662  
(B) (2) of section 131.44 of the Revised Code required to be made 663  
by the thirty-first day of July of the ~~calendar~~ ensuing fiscal 664  
~~year in which the commissioner makes the certifications under~~ 665  
~~this division.~~ 666

(3) Division (C) of this section does not authorize the 667  
state to require remote sellers to pay, collect, or remit a tax 668  
imposed under this chapter or Chapter 5739. of the Revised Code 669  
in the absence of federal legislation authorizing states to 670  
require sellers that lack a substantial nexus with the state to 671  
pay, collect, or remit sales and use tax. 672

**Sec. 5741.032.** There is hereby created in the state 673  
treasury the remote seller administration fund for the purpose 674  
of paying the expenses incurred by the department of taxation in 675  
the administration of this chapter with respect to remote 676  
sellers. Annually, before the thirty-first day of each July 677  
following the date remote sellers are first required to pay, 678  
collect, or remit a tax under this chapter, the treasurer of 679  
state shall transfer to the remote seller administration fund 680  
one-half of one per cent of the taxes collected from remote 681  
sellers under this chapter during the preceding fiscal year. 682

**Section 2.** That existing sections 131.44, 1509.73, 683  
5741.01, 5741.03, and 5741.032 of the Revised Code are hereby 684  
repealed. 685