

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 197

Representatives Powell, Merrin

A BILL

To amend sections 122.075, 125.831, 131.45, 133.01, 1
133.06, 133.07, 133.18, 135.142, 305.31, 2
306.322, 307.671, 307.672, 307.674, 307.678, 3
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5747.07, 5747.082, 5747.11, 5747.231, 5747.41, 25
5747.51, 5747.52, 5747.55, 5747.98, 5748.01, 26
5748.08, 5748.09, 5751.01, 5751.08, 5751.09, 27
5751.50, 5751.51, and 5753.11, to enact sections 28
5739.091, 5739.092, 5751.40, 5751.41, and 29
5751.42, and to repeal sections 901.13, 30
5705.211, 5727.87, 5733.46, 5739.105, 5747.75, 31
and 5751.23 of the Revised Code to enact the 32
"Tax Code Streamlining and Correction Act" to 33
make technical and corrective changes to the 34
laws governing taxation. 35

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

Section 1. That sections 122.075, 125.831, 131.45, 133.01, 36
133.06, 133.07, 133.18, 135.142, 305.31, 306.322, 307.671, 37
307.672, 307.674, 307.678, 307.695, 319.301, 321.03, 321.20, 38
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5739.01, 5739.011, 5739.02, 5739.021, 5739.028, 5739.03, 50
5739.034, 5739.05, 5739.08, 5739.09, 5739.21, 5740.02, 5741.01, 51

5743.05, 5743.08, 5743.33, 5743.62, 5743.65, 5745.14, 5747.01, 52
5747.011, 5747.012, 5747.013, 5747.02, 5747.058, 5747.061, 53
5747.07, 5747.082, 5747.11, 5747.231, 5747.41, 5747.51, 5747.52, 54
5747.55, 5747.98, 5748.01, 5748.08, 5748.09, 5751.01, 5751.08, 55
5751.09, 5751.50, 5751.51, and 5753.11 be amended and sections 56
5739.091, 5739.092, 5751.40, 5751.41, and 5751.42 of the Revised 57
Code be enacted to read as follows: 58

Sec. 122.075. (A) As used in this section: 59

(1) "Alternative fuel" has the same meaning as in section 60
125.831 of the Revised Code. 61

(2) "Biodiesel" means a mono-alkyl ester combustible 62
liquid fuel that is derived from vegetable oils or animal fats, 63
or any combination of those reagents, and that meets American 64
society for testing and materials specification D6751-03a for 65
biodiesel fuel (B100) blend stock distillate fuels. 66

(3) "Diesel fuel" and "gasoline" have the same meanings as 67
in section 5735.01 of the Revised Code. 68

(4) ~~"Ethanol" has the same meaning as in section 5733.46~~ 69
of the Revised Code means fermentation ethyl alcohol derived 70
from agricultural products, including potatoes, cereal, grains, 71
cheese whey, and sugar beets; forest products; or other 72
renewable resources, including residue and waste generated from 73
the production, processing, and marketing of agricultural 74
products, forest products, and other renewable resources that 75
meet all of the specifications in the American society for 76
testing and materials (ASTM) specification D 4806-88 and is 77
denatured as specified in Parts 20 and 21 of Title 27 of the 78
Code of Federal Regulations. 79

(5) "Blended biodiesel" means diesel fuel containing at 80

least twenty per cent biodiesel by volume. 81

(6) "Blended gasoline" means gasoline containing at least 82
eighty-five per cent ethanol by volume. 83

(7) "Incremental cost" means either of the following: 84

(a) The difference in cost between blended gasoline and 85
gasoline containing ten per cent or less ethanol at the time 86
that the blended gasoline is purchased; 87

(b) The difference in cost between blended biodiesel and 88
diesel fuel containing two per cent or less biodiesel at the 89
time that the blended biodiesel is purchased. 90

(B) For the purpose of improving the air quality in this 91
state, the director of development services shall establish an 92
alternative fuel transportation program under which the director 93
may make grants and loans to businesses, nonprofit 94
organizations, public school systems, or local governments for 95
the purchase and installation of alternative fuel refueling or 96
distribution facilities and terminals, for the purchase and use 97
of alternative fuel, to pay the cost of fleet conversion, and to 98
pay the costs of educational and promotional materials and 99
activities intended for prospective alternative fuel consumers, 100
fuel marketers, and others in order to increase the availability 101
and use of alternative fuel. 102

(C) The director, in consultation with the director of 103
agriculture, shall adopt rules in accordance with Chapter 119. 104
of the Revised Code that are necessary for the administration of 105
the alternative fuel transportation program. The rules shall 106
establish at least all of the following: 107

(1) An application form and procedures governing the 108
application process for receiving funds under the program; 109

(2) A procedure for prioritizing the award of grants and	110
loans under the program. The procedures shall give preference to	111
all of the following:	112
(a) Publicly accessible refueling facilities;	113
(b) Entities applying to the program that have secured	114
funding from other sources, including, but not limited to,	115
private or federal incentives;	116
(c) Entities that have presented compelling evidence of	117
demand in the market in which the facilities or terminals will	118
be located;	119
(d) Entities that have committed to utilizing purchased or	120
installed facilities or terminals for the greatest number of	121
years;	122
(e) Entities that will be purchasing or installing	123
facilities or terminals for any type of alternative fuel.	124
(3) A requirement that the maximum incentive for the	125
purchase and installation of an alternative fuel refueling or	126
distribution facility or terminal be eighty per cent of the cost	127
of the facility or terminal, except that at least twenty per	128
cent of the total cost of the facility or terminal shall be	129
incurred by the recipient and not compensated for by any other	130
source;	131
(4) A requirement that the maximum incentive for the	132
purchase of alternative fuel be eighty per cent of the cost of	133
the fuel or, in the case of blended biodiesel or blended	134
gasoline, eighty per cent of the incremental cost of the blended	135
biodiesel or blended gasoline;	136
(5) Any other criteria, procedures, or guidelines that the	137

director determines are necessary to administer the program, 138
including fees, charges, interest rates, and payment schedules. 139

(D) An applicant for a grant or loan under this section 140
that sells motor vehicle fuel at retail shall agree that if the 141
applicant receives funding, the applicant will report to the 142
director the gallon or gallon equivalent amounts of alternative 143
fuel the applicant sells at retail in this state for a period of 144
three years after the project is completed. 145

The director shall enter into a written confidentiality 146
agreement with the applicant regarding the gallon or gallon 147
equivalent amounts sold as described in this division, and upon 148
execution of the agreement this information is not a public 149
record. 150

(E) There is hereby created in the state treasury the 151
alternative fuel transportation fund. The fund shall consist of 152
money transferred to the fund under division (B) of section 153
125.836 and under division (B) (2) of section 3706.27 of the 154
Revised Code, money that is appropriated to it by the general 155
assembly, money as may be specified by the general assembly from 156
the advanced energy fund created by section 4928.61 of the 157
Revised Code, and all money received from the repayment of loans 158
made from the fund or in the event of a default on any such 159
loan. Money in the fund shall be used to make grants and loans 160
under the alternative fuel transportation program and by the 161
director in the administration of that program. 162

Sec. 125.831. As used in sections 125.831 to 125.834 of 163
the Revised Code: 164

(A) "Alternative fuel" means any of the following fuels 165
used in a motor vehicle: 166

(1) E85 blend fuel;	167
(2) Blended biodiesel;	168
(3) Natural gas;	169
(4) Liquefied petroleum gas;	170
(5) Hydrogen;	171
(6) Compressed air;	172
(7) Any power source, including electricity;	173
(8) Any fuel not described in divisions (A) (1) to (7) of this section that the United States department of energy determines, by final rule, to be substantially not petroleum, and that would yield substantial energy security and environmental benefits.	174 175 176 177 178
(B) "Biodiesel" means a mono-alkyl ester combustible liquid fuel that is derived from vegetable oils or animal fats, or any combination of those reagents that meets the American society for testing and materials specification for biodiesel fuel (B100) blend stock distillate fuels and any other standards that the director of administrative services adopts by rule.	179 180 181 182 183 184
(C) "Blended biodiesel" means a blend of biodiesel with petroleum based diesel fuel in which the resultant product contains not less than twenty per cent biodiesel that meets the American society for testing and materials specification for blended diesel fuel and any other standards that the director of administrative services adopts by rule.	185 186 187 188 189 190
(D) "Diesel fuel" means any liquid fuel that is capable of use in discrete form or as a blend component in the operation of engines of the diesel type.	191 192 193

(E) "E85 blend fuel" means fuel containing eighty-five per cent or more ethanol as defined in section ~~5733.46~~122.075 of the Revised Code or containing any other percentage of not less than seventy per cent ethanol if the United States department of energy determines, by rule, that the lower percentage is necessary to provide for the requirements of cold start, safety, or vehicle functions, and that meets the American society for testing and materials specification for E85 blend fuel and any other standards that the director of administrative services adopts by rule.

(F) "Law enforcement officer" means an officer, agent, or employee of a state agency upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, but does not include such an officer, agent, or employee if that duty and authority is location specific.

(G) (1) "Motor vehicle" means any automobile, car minivan, cargo van, passenger van, sport utility vehicle, or pickup truck with a gross vehicle weight of under twelve thousand pounds.

(2) "Motor vehicle" does not include, except for the purposes of division (C) of section 125.832 of the Revised Code, any vehicle described in division (G) (1) of this section that is used by a law enforcement officer and law enforcement agency or any vehicle that is so described and that is equipped with specialized equipment that is not normally found in such a vehicle and that is used to carry out a state agency's specific and specialized duties and responsibilities.

(H) "Specialized equipment" does not include standard mobile radios with no capabilities other than voice

communication, exterior and interior lights, or roof-mounted 224
caution lights. 225

(I) "State agency" means every organized body, office, 226
board, authority, commission, or agency established by the laws 227
of the state for the exercise of any governmental or quasi- 228
governmental function of state government regardless of the 229
funding source for that entity, other than any state institution 230
of higher education, the office of the governor, lieutenant 231
governor, auditor of state, treasurer of state, secretary of 232
state, or attorney general, the general assembly or any 233
legislative agency, the courts or any judicial agency, or any 234
state retirement system or retirement program established by or 235
referenced in the Revised Code. 236

(J) "State institution of higher education" has the same 237
meaning as in section 3345.011 of the Revised Code. 238

Sec. 131.45. (A) The amount the general assembly 239
appropriates from the general revenue fund each year per pupil 240
for primary and secondary educational purposes shall be not less 241
than the amount it appropriated per pupil for those purposes for 242
the base year, adjusted for changes in prices as measured by the 243
consumer price index (all urban consumers, all items) prepared 244
by the bureau of labor statistics of the United States 245
department of labor. The base year is fiscal year 1999. 246

(B) Appropriations of the ~~proceeds of the sales and use-~~ 247
~~tax levied by sections 5739.029 and 5741.024 of the Revised Code-~~ 248
~~and of the net proceeds of any state lottery under Section 6 of~~ 249
Article XV of the Ohio Constitution shall be in addition to 250
appropriations made pursuant to this section. 251

(C) For the purposes of this section, appropriations for 252

primary and secondary educational purposes includes amounts 253
appropriated to reimburse school districts for property tax 254
reductions required by law. 255

Sec. 133.01. As used in this chapter, in sections 9.95, 256
9.96, and 2151.655 of the Revised Code, in other sections of the 257
Revised Code that make reference to this chapter unless the 258
context does not permit, and in related proceedings, unless 259
otherwise expressly provided: 260

(A) "Acquisition" as applied to real or personal property 261
includes, among other forms of acquisition, acquisition by 262
exercise of a purchase option, and acquisition of interests in 263
property, including, without limitation, easements and rights- 264
of-way, and leasehold and other lease interests initially 265
extending or extendable for a period of at least sixty months. 266

(B) "Anticipatory securities" means securities, including 267
notes, issued in anticipation of the issuance of other 268
securities. 269

(C) "Board of elections" means the county board of 270
elections of the county in which the subdivision is located. If 271
the subdivision is located in more than one county, "board of 272
elections" means the county board of elections of the county 273
that contains the largest portion of the population of the 274
subdivision or that otherwise has jurisdiction in practice over 275
and customarily handles election matters relating to the 276
subdivision. 277

(D) "Bond retirement fund" means the bond retirement fund 278
provided for in section 5705.09 of the Revised Code, and also 279
means a sinking fund or any other special fund, regardless of 280
the name applied to it, established by or pursuant to law or the 281

proceedings for the payment of debt charges. Provision may be 282
made in the applicable proceedings for the establishment in a 283
bond retirement fund of separate accounts relating to debt 284
charges on particular securities, or on securities payable from 285
the same or common sources, and for the application of moneys in 286
those accounts only to specified debt charges on specified 287
securities or categories of securities. Subject to law and any 288
provisions in the applicable proceedings, moneys in a bond 289
retirement fund or separate account in a bond retirement fund 290
may be transferred to other funds and accounts. 291

(E) "Capitalized interest" means all or a portion of the 292
interest payable on securities from their date to a date stated 293
or provided for in the applicable legislation, which interest is 294
to be paid from the proceeds of the securities. 295

(F) "Chapter 133. securities" means securities authorized 296
by or issued pursuant to or in accordance with this chapter. 297

(G) "County auditor" means the county auditor of the 298
county in which the subdivision is located. If the subdivision 299
is located in more than one county, "county auditor" means the 300
county auditor of the county that contains the highest amount of 301
the tax valuation of the subdivision or that otherwise has 302
jurisdiction in practice over and customarily handles property 303
tax matters relating to the subdivision. In the case of a county 304
that has adopted a charter, "county auditor" means the officer 305
who generally has the duties and functions provided in the 306
Revised Code for a county auditor. 307

(H) "Credit enhancement facilities" means letters of 308
credit, lines of credit, stand-by, contingent, or firm 309
securities purchase agreements, insurance, or surety 310
arrangements, guarantees, and other arrangements that provide 311

for direct or contingent payment of debt charges, for security 312
or additional security in the event of nonpayment or default in 313
respect of securities, or for making payment of debt charges to 314
and at the option and on demand of securities holders or at the 315
option of the issuer or upon certain conditions occurring under 316
put or similar arrangements, or for otherwise supporting the 317
credit or liquidity of the securities, and includes credit, 318
reimbursement, marketing, remarketing, indexing, carrying, 319
interest rate hedge, and subrogation agreements, and other 320
agreements and arrangements for payment and reimbursement of the 321
person providing the credit enhancement facility and the 322
security for that payment and reimbursement. 323

(I) "Current operating expenses" or "current expenses" 324
means the lawful expenditures of a subdivision, except those for 325
permanent improvements and for payments of debt charges of the 326
subdivision. 327

(J) "Debt charges" means the principal, including any 328
mandatory sinking fund deposits and mandatory redemption 329
payments, interest, and any redemption premium, payable on 330
securities as those payments come due and are payable. The use 331
of "debt charges" for this purpose does not imply that any 332
particular securities constitute debt within the meaning of the 333
Ohio Constitution or other laws. 334

(K) "Financing costs" means all costs and expenses 335
relating to the authorization, including any required election, 336
issuance, sale, delivery, authentication, deposit, custody, 337
clearing, registration, transfer, exchange, fractionalization, 338
replacement, payment, and servicing of securities, including, 339
without limitation, costs and expenses for or relating to 340
publication and printing, postage, delivery, preliminary and 341

final official statements, offering circulars, and informational 342
statements, travel and transportation, underwriters, placement 343
agents, investment bankers, paying agents, registrars, 344
authenticating agents, remarketing agents, custodians, clearing 345
agencies or corporations, securities depositories, financial 346
advisory services, certifications, audits, federal or state 347
regulatory agencies, accounting and computation services, legal 348
services and obtaining approving legal opinions and other legal 349
opinions, credit ratings, redemption premiums, and credit 350
enhancement facilities. Financing costs may be paid from any 351
moneys available for the purpose, including, unless otherwise 352
provided in the proceedings, from the proceeds of the securities 353
to which they relate and, as to future financing costs, from the 354
same sources from which debt charges on the securities are paid 355
and as though debt charges. 356

(L) "Fiscal officer" means the following, or, in the case 357
of absence or vacancy in the office, a deputy or assistant 358
authorized by law or charter to act in the place of the named 359
officer, or if there is no such authorization then the deputy or 360
assistant authorized by legislation to act in the place of the 361
named officer for purposes of this chapter, in the case of the 362
following subdivisions: 363

(1) A county, the county auditor; 364

(2) A municipal corporation, the city auditor or village 365
clerk or clerk-treasurer, or the officer who, by virtue of a 366
charter, has the duties and functions provided in the Revised 367
Code for the city auditor or village clerk or clerk-treasurer; 368

(3) A school district, the treasurer of the board of 369
education; 370

(4) A regional water and sewer district, the secretary of the board of trustees;	371 372
(5) A joint township hospital district, the treasurer of the district;	373 374
(6) A joint ambulance district, the clerk of the board of trustees;	375 376
(7) A joint recreation district, the person designated pursuant to section 755.15 of the Revised Code;	377 378
(8) A detention facility district or a district organized under section 2151.65 of the Revised Code or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district;	379 380 381 382 383
(9) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the fiscal officer of the township;	384 385 386
(10) A joint fire district, the clerk of the board of trustees of that district;	387 388
(11) A regional or county library district, the person responsible for the financial affairs of that district;	389 390
(12) A joint solid waste management district, the fiscal officer appointed by the board of directors of the district under section 343.01 of the Revised Code;	391 392 393
(13) A joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code;	394 395 396
(14) A fire and ambulance district, the person appointed	397

as fiscal officer under division (B) of section 505.375 of the Revised Code;	398 399
(15) A subdivision described in division (MM) (19) <u>(20)</u> of this section, the officer who is designated by law as or performs the functions of its chief fiscal officer;	400 401 402
(16) A joint police district, the treasurer of the district;	403 404
(17) A lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code;	405 406
(18) A regional transportation improvement project, the county auditor designated under section 5595.10 of the Revised Code.	407 408 409
(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.	410 411
(N) "Fractionalized interests in public obligations" means participations, certificates of participation, shares, or other instruments or agreements, separate from the public obligations themselves, evidencing ownership of interests in public obligations or of rights to receive payments of, or on account of, principal or interest or their equivalents payable by or on behalf of an obligor pursuant to public obligations.	412 413 414 415 416 417 418
(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.	419 420 421
(P) "Fund" means to provide for the payment of debt charges and expenses related to that payment at or prior to retirement by purchase, call for redemption, payment at maturity, or otherwise.	422 423 424 425

(Q) "General obligation" means securities to the payment 426
of debt charges on which the full faith and credit and the 427
general property taxing power, including taxes within the tax 428
limitation if available to the subdivision, of the subdivision 429
are pledged. 430

(R) "Interest" or "interest equivalent" means those 431
payments or portions of payments, however denominated, that 432
constitute or represent consideration for forbearing the 433
collection of money, or for deferring the receipt of payment of 434
money to a future time. 435

(S) "Internal Revenue Code" means the "Internal Revenue 436
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as 437
amended, and includes any laws of the United States providing 438
for application of that code. 439

(T) "Issuer" means any public issuer and any nonprofit 440
corporation authorized to issue securities for or on behalf of 441
any public issuer. 442

(U) "Legislation" means an ordinance or resolution passed 443
by a majority affirmative vote of the then members of the taxing 444
authority unless a different vote is required by charter 445
provisions governing the passage of the particular legislation 446
by the taxing authority. 447

(V) "Mandatory sinking fund redemption requirements" means 448
amounts required by proceedings to be deposited in a bond 449
retirement fund for the purpose of paying in any year or fiscal 450
year by mandatory redemption prior to stated maturity the 451
principal of securities that is due and payable, except for 452
mandatory prior redemption requirements as provided in those 453
proceedings, in a subsequent year or fiscal year. 454

(W) "Mandatory sinking fund requirements" means amounts 455
required by proceedings to be deposited in a year or fiscal year 456
in a bond retirement fund for the purpose of paying the 457
principal of securities that is due and payable in a subsequent 458
year or fiscal year. 459

(X) "Net indebtedness" has the same meaning as in division 460
(A) of section 133.04 of the Revised Code. 461

(Y) "Obligor," in the case of securities or fractionalized 462
interests in public obligations issued by another person the 463
debt charges or their equivalents on which are payable from 464
payments made by a public issuer, means that public issuer. 465

(Z) "One purpose" relating to permanent improvements means 466
any one permanent improvement or group or category of permanent 467
improvements for the same utility, enterprise, system, or 468
project, development or redevelopment project, or for or devoted 469
to the same general purpose, function, or use or for which self- 470
supporting securities, based on the same or different sources of 471
revenues, may be issued or for which special assessments may be 472
levied by a single ordinance or resolution. "One purpose" 473
includes, but is not limited to, in any case any off-street 474
parking facilities relating to another permanent improvement, 475
and: 476

(1) Any number of roads, highways, streets, bridges, 477
sidewalks, and viaducts; 478

(2) Any number of off-street parking facilities; 479

(3) In the case of a county, any number of permanent 480
improvements for courthouse, jail, county offices, and other 481
county buildings, and related facilities; 482

(4) In the case of a school district, any number of 483

facilities and buildings for school district purposes, and	484
related facilities.	485
(AA) "Outstanding," referring to securities, means	486
securities that have been issued, delivered, and paid for,	487
except any of the following:	488
(1) Securities canceled upon surrender, exchange, or	489
transfer, or upon payment or redemption;	490
(2) Securities in replacement of which or in exchange for	491
which other securities have been issued;	492
(3) Securities for the payment, or redemption or purchase	493
for cancellation prior to maturity, of which sufficient moneys	494
or investments, in accordance with the applicable legislation or	495
other proceedings or any applicable law, by mandatory sinking	496
fund redemption requirements, mandatory sinking fund	497
requirements, or otherwise, have been deposited, and credited	498
for the purpose in a bond retirement fund or with a trustee or	499
paying or escrow agent, whether at or prior to their maturity or	500
redemption, and, in the case of securities to be redeemed prior	501
to their stated maturity, notice of redemption has been given or	502
satisfactory arrangements have been made for giving notice of	503
that redemption, or waiver of that notice by or on behalf of the	504
affected security holders has been filed with the subdivision or	505
its agent for the purpose.	506
(BB) "Paying agent" means the one or more banks, trust	507
companies, or other financial institutions or qualified persons,	508
including an appropriate office or officer of the subdivision,	509
designated as a paying agent or place of payment of debt charges	510
on the particular securities.	511
(CC) "Permanent improvement" or "improvement" means any	512

property, asset, or improvement certified by the fiscal officer, 513
which certification is conclusive, as having an estimated life 514
or period of usefulness of five years or more, and includes, but 515
is not limited to, real estate, buildings, and personal property 516
and interests in real estate, buildings, and personal property, 517
equipment, furnishings, and site improvements, and 518
reconstruction, rehabilitation, renovation, installation, 519
improvement, enlargement, and extension of property, assets, or 520
improvements so certified as having an estimated life or period 521
of usefulness of five years or more. The acquisition of all the 522
stock ownership of a corporation is the acquisition of a 523
permanent improvement to the extent that the value of that stock 524
is represented by permanent improvements. A permanent 525
improvement for parking, highway, road, and street purposes 526
includes resurfacing, but does not include ordinary repair. 527

(DD) "Person" has the same meaning as in section 1.59 of 528
the Revised Code and also includes any federal, state, 529
interstate, regional, or local governmental agency, any 530
subdivision, and any combination of those persons. 531

(EE) "Proceedings" means the legislation, certifications, 532
notices, orders, sale proceedings, trust agreement or indenture, 533
mortgage, lease, lease-purchase agreement, assignment, credit 534
enhancement facility agreements, and other agreements, 535
instruments, and documents, as amended and supplemented, and any 536
election proceedings, authorizing, or providing for the terms 537
and conditions applicable to, or providing for the security or 538
sale or award of, public obligations, and includes the 539
provisions set forth or incorporated in those public obligations 540
and proceedings. 541

(FF) "Public issuer" means any of the following that is 542

authorized by law to issue securities or enter into public obligations:	543 544
(1) The state, including an agency, commission, officer, institution, board, authority, or other instrumentality of the state;	545 546 547
(2) A taxing authority, subdivision, district, or other local public or governmental entity, and any combination or consortium, or public division, district, commission, authority, department, board, officer, or institution, thereof;	548 549 550 551
(3) Any other body corporate and politic, or other public entity.	552 553
(GG) "Public obligations" means both of the following:	554
(1) Securities;	555
(2) Obligations of a public issuer to make payments under installment sale, lease, lease purchase, or similar agreements, which obligations may bear interest or interest equivalent.	556 557 558
(HH) "Refund" means to fund and retire outstanding securities, including advance refunding with or without payment or redemption prior to maturity.	559 560 561
(II) "Register" means the books kept and maintained by the registrar for registration, exchange, and transfer of registered securities.	562 563 564
(JJ) "Registrar" means the person responsible for keeping the register for the particular registered securities, designated by or pursuant to the proceedings.	565 566 567
(KK) "Securities" means bonds, notes, certificates of indebtedness, commercial paper, and other instruments in	568 569

writing, including, unless the context does not admit, 570
anticipatory securities, issued by an issuer to evidence its 571
obligation to repay money borrowed, or to pay interest, by, or 572
to pay at any future time other money obligations of, the issuer 573
of the securities, but not including public obligations 574
described in division (GG) (2) of this section. 575

(LL) "Self-supporting securities" means securities or 576
portions of securities issued for the purpose of paying costs of 577
permanent improvements to the extent that receipts of the 578
subdivision, other than the proceeds of taxes levied by that 579
subdivision, derived from or with respect to the improvements or 580
the operation of the improvements being financed, or the 581
enterprise, system, project, or category of improvements of 582
which the improvements being financed are part, are estimated by 583
the fiscal officer to be sufficient to pay the current expenses 584
of that operation or of those improvements or enterprise, 585
system, project, or categories of improvements and the debt 586
charges payable from those receipts on securities issued for the 587
purpose. Until such time as the improvements or increases in 588
rates and charges have been in operation or effect for a period 589
of at least six months, the receipts therefrom, for purposes of 590
this definition, shall be those estimated by the fiscal officer, 591
except that those receipts may include, without limitation, 592
payments made and to be made to the subdivision under leases or 593
agreements in effect at the time the estimate is made. In the 594
case of an operation, improvements, or enterprise, system, 595
project, or category of improvements without at least a six- 596
month history of receipts, the estimate of receipts by the 597
fiscal officer, other than those to be derived under leases and 598
agreements then in effect, shall be confirmed by the taxing 599
authority. 600

(MM) "Subdivision" means any of the following:	601
(1) A county, including a county that has adopted a charter under Article X, Ohio Constitution;	602 603
(2) A municipal corporation, including a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution;	604 605 606
(3) A school district;	607
(4) A regional water and sewer district organized under Chapter 6119. of the Revised Code;	608 609
(5) A joint township hospital district organized under section 513.07 of the Revised Code;	610 611
(6) A joint ambulance district organized under section 505.71 of the Revised Code;	612 613
(7) A joint recreation district organized under division (C) of section 755.14 of the Revised Code;	614 615
(8) A detention facility district organized under section 2152.41, a district organized under section 2151.65, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code;	616 617 618 619
(9) A township police district organized under section 505.48 of the Revised Code;	620 621
(10) A township;	622
(11) A joint fire district organized under section 505.371 of the Revised Code;	623 624
(12) A county library district created under section 3375.19 or a regional library district created under section 3375.28 of the Revised Code;	625 626 627

(13) A joint solid waste management district organized	628
under section 343.01 or 343.012 of the Revised Code;	629
(14) A joint emergency medical services district organized	630
under section 307.052 of the Revised Code;	631
(15) A fire and ambulance district organized under section	632
505.375 of the Revised Code;	633
(16) A fire district organized under division (C) of	634
section 505.37 of the Revised Code;	635
(17) A joint police district organized under section	636
505.482 of the Revised Code;	637
(18) A lake facilities authority created under Chapter	638
353. of the Revised Code;	639
(19) A regional transportation improvement project created	640
under Chapter 5595. of the Revised Code;	641
(20) Any other political subdivision or taxing district or	642
other local public body or agency authorized by this chapter or	643
other laws to issue Chapter 133. securities.	644
(NN) "Taxing authority" means in the case of the following	645
subdivisions:	646
(1) A county, a county library district, or a regional	647
library district, the board or boards of county commissioners,	648
or other legislative authority of a county that has adopted a	649
charter under Article X, Ohio Constitution, but with respect to	650
such a library district acting solely as agent for the board of	651
trustees of that district;	652
(2) A municipal corporation, the legislative authority;	653
(3) A school district, the board of education;	654

- (4) A regional water and sewer district, a joint ambulance district, a joint recreation district, a fire and ambulance district, or a joint fire district, the board of trustees of the district; 655
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- (5) A joint township hospital district, the joint township hospital board; 659
660
- (6) A detention facility district or a district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a joint emergency medical services district, the joint board of county commissioners; 661
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- (7) A township, a fire district organized under division (C) of section 505.37 of the Revised Code, or a township police district, the board of township trustees; 666
667
668
- (8) A joint solid waste management district organized under section 343.01 or 343.012 of the Revised Code, the board of directors of the district; 669
670
671
- (9) A subdivision described in division (MM) ~~(19)~~ (20) of this section, the legislative or governing body or official; 672
673
- (10) A joint police district, the joint police district board; 674
675
- (11) A lake facilities authority, the board of directors; 676
- (12) A regional transportation improvement project, the governing board. 677
678
- (00) "Tax limitation" means the "ten-mill limitation" as defined in section 5705.02 of the Revised Code without diminution by reason of section 5705.313 of the Revised Code or otherwise, or, in the case of a municipal corporation or county 679
680
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with a different charter limitation on property taxes levied to 683
pay debt charges on unvoted securities, that charter limitation. 684
Those limitations shall be respectively referred to as the "ten- 685
mill limitation" and the "charter tax limitation." 686

(PP) "Tax valuation" means the aggregate of the valuations 687
of property subject to ad valorem property taxation by the 688
subdivision on the real property, personal property, and public 689
utility property tax lists and duplicates most recently 690
certified for collection, and shall be calculated without 691
deductions of the valuations of otherwise taxable property 692
exempt in whole or in part from taxation by reason of exemptions 693
of certain amounts of taxable value under division (C) of 694
section 5709.01, tax reductions under section 323.152 of the 695
Revised Code, or similar laws now or in the future in effect. 696

For purposes of section 133.06 of the Revised Code, "tax 697
valuation" shall not include the valuation of tangible personal 698
property used in business, telephone or telegraph property, 699
interexchange telecommunications company property, or personal 700
property owned or leased by a railroad company and used in 701
railroad operations listed under or described in section 702
5711.22, division (B) or (F) of section 5727.111, or section 703
5727.12 of the Revised Code. 704

(QQ) "Year" means the calendar year. 705

(RR) "Administrative agent," "agent," "commercial paper," 706
"floating rate interest structure," "indexing agent," "interest 707
rate hedge," "interest rate period," "put arrangement," and 708
"remarketing agent" have the same meanings as in section 9.98 of 709
the Revised Code. 710

(SS) "Sales tax supported" means obligations to the 711

payment of debt charges on which an additional sales tax or 712
additional sales taxes have been pledged by the taxing authority 713
of a county pursuant to section 133.081 of the Revised Code. 714

(TT) "Tourism development district revenue supported" 715
means obligations to the payment of debt charges on which 716
tourism development district revenue has been pledged by the 717
taxing authority of a municipal corporation or township under 718
section 133.083 of the Revised Code. 719

Sec. 133.06. (A) A school district shall not incur, 720
without a vote of the electors, net indebtedness that exceeds an 721
amount equal to one-tenth of one per cent of its tax valuation, 722
except as provided in divisions (G) and (H) of this section and 723
in division (D) of section 3313.372 of the Revised Code, or as 724
prescribed in section 3318.052 or 3318.44 of the Revised Code, 725
or as provided in division (J) of this section. 726

(B) Except as provided in divisions (E), (F), and (I) of 727
this section, a school district shall not incur net indebtedness 728
that exceeds an amount equal to nine per cent of its tax 729
valuation. 730

(C) A school district shall not submit to a vote of the 731
electors the question of the issuance of securities in an amount 732
that will make the district's net indebtedness after the 733
issuance of the securities exceed an amount equal to four per 734
cent of its tax valuation, unless the superintendent of public 735
instruction, acting under policies adopted by the state board of 736
education, and the tax commissioner, acting under written 737
policies of the commissioner, consent to the submission. A 738
request for the consents shall be made at least one hundred 739
twenty days prior to the election at which the question is to be 740
submitted. 741

The superintendent of public instruction shall certify to the district the superintendent's and the tax commissioner's decisions within thirty days after receipt of the request for consents.

If the electors do not approve the issuance of securities at the election for which the superintendent of public instruction and tax commissioner consented to the submission of the question, the school district may submit the same question to the electors on the date that the next special election may be held under section 3501.01 of the Revised Code without submitting a new request for consent. If the school district seeks to submit the same question at any other subsequent election, the district shall first submit a new request for consent in accordance with this division.

(D) In calculating the net indebtedness of a school district, none of the following shall be considered:

(1) Securities issued to acquire school buses and other equipment used in transporting pupils or issued pursuant to division (D) of section 133.10 of the Revised Code;

(2) Securities issued under division (F) of this section, ~~under section 133.301 of the Revised Code,~~ and, to the extent in excess of the limitation stated in division (B) of this section, under division (E) of this section;

(3) Indebtedness resulting from the dissolution of a joint vocational school district under section 3311.217 of the Revised Code, evidenced by outstanding securities of that joint vocational school district;

(4) Loans, evidenced by any securities, received under sections 3313.483, 3317.0210, and 3317.0211 of the Revised Code;

(5) Debt incurred under section 3313.374 of the Revised Code;	771 772
(6) Debt incurred pursuant to division (B) (5) of section 3313.37 of the Revised Code to acquire computers and related hardware;	773 774 775
(7) Debt incurred under section 3318.042 of the Revised Code;	776 777
(8) Debt incurred under section 5705.2112 or 5705.2113 of the Revised Code by the fiscal board of a qualifying partnership of which the school district is a participating school district.	778 779 780
(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.	781 782 783
(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:	784 785 786
(a) The student population is not being adequately serviced by the existing permanent improvements of the district.	787 788
(b) The district cannot obtain sufficient funds by the issuance of securities within the limitation of division (B) of this section to provide additional or improved needed permanent improvements in time to meet the needs.	789 790 791 792
(2) The board of education shall certify a copy of that resolution to the superintendent of public instruction with a statistical report showing all of the following:	793 794 795
(a) The history of and a projection of the growth of the tax valuation;	796 797

(b) The projected needs;	798
(c) The estimated cost of permanent improvements proposed to meet such projected needs.	799 800
(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:	801 802 803
(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.	804 805 806
(b) The projection of the potential average growth of tax valuation during the next five years, according to the information certified to the superintendent and any other information the superintendent obtains, indicates a likelihood of potential average growth of tax valuation of the district during the next five years of an average of not less than one and one-half per cent per year. The findings and certification of the superintendent shall be conclusive.	807 808 809 810 811 812 813 814
(4) An approved special needs district may incur net indebtedness by the issuance of securities in accordance with the provisions of this chapter in an amount that does not exceed an amount equal to the greater of the following:	815 816 817 818
(a) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation by the percentage by which the tax valuation has increased over the tax valuation on the first day of the sixtieth month preceding the month in which its board determines to submit to the electors the question of issuing the proposed securities;	819 820 821 822 823 824
(b) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation	825 826

by the percentage, determined by the superintendent of public 827
instruction, by which that tax valuation is projected to 828
increase during the next ten years. 829

(F) A school district may issue securities for emergency 830
purposes, in a principal amount that does not exceed an amount 831
equal to three per cent of its tax valuation, as provided in 832
this division. 833

(1) A board of education, by resolution, may declare an 834
emergency if it determines both of the following: 835

(a) School buildings or other necessary school facilities 836
in the district have been wholly or partially destroyed, or 837
condemned by a constituted public authority, or that such 838
buildings or facilities are partially constructed, or so 839
constructed or planned as to require additions and improvements 840
to them before the buildings or facilities are usable for their 841
intended purpose, or that corrections to permanent improvements 842
are necessary to remove or prevent health or safety hazards. 843

(b) Existing fiscal and net indebtedness limitations make 844
adequate replacement, additions, or improvements impossible. 845

(2) Upon the declaration of an emergency, the board of 846
education may, by resolution, submit to the electors of the 847
district pursuant to section 133.18 of the Revised Code the 848
question of issuing securities for the purpose of paying the 849
cost, in excess of any insurance or condemnation proceeds 850
received by the district, of permanent improvements to respond 851
to the emergency need. 852

(3) The procedures for the election shall be as provided 853
in section 133.18 of the Revised Code, except that: 854

(a) The form of the ballot shall describe the emergency 855

existing, refer to this division as the authority under which 856
the emergency is declared, and state that the amount of the 857
proposed securities exceeds the limitations prescribed by 858
division (B) of this section; 859

(b) The resolution required by division (B) of section 860
133.18 of the Revised Code shall be certified to the county 861
auditor and the board of elections at least one hundred days 862
prior to the election; 863

(c) The county auditor shall advise and, not later than 864
ninety-five days before the election, confirm that advice by 865
certification to, the board of education of the information 866
required by division (C) of section 133.18 of the Revised Code; 867

(d) The board of education shall then certify its 868
resolution and the information required by division (D) of 869
section 133.18 of the Revised Code to the board of elections not 870
less than ninety days prior to the election. 871

(4) Notwithstanding division (B) of section 133.21 of the 872
Revised Code, the first principal payment of securities issued 873
under this division may be set at any date not later than sixty 874
months after the earliest possible principal payment otherwise 875
provided for in that division. 876

(G) (1) The board of education may contract with an 877
architect, professional engineer, or other person experienced in 878
the design and implementation of energy conservation measures 879
for an analysis and recommendations pertaining to installations, 880
modifications of installations, or remodeling that would 881
significantly reduce energy consumption in buildings owned by 882
the district. The report shall include estimates of all costs of 883
such installations, modifications, or remodeling, including 884

costs of design, engineering, installation, maintenance, 885
repairs, measurement and verification of energy savings, and 886
debt service, forgone residual value of materials or equipment 887
replaced by the energy conservation measure, as defined by the 888
Ohio facilities construction commission, a baseline analysis of 889
actual energy consumption data for the preceding three years 890
with the utility baseline based on only the actual energy 891
consumption data for the preceding twelve months, and estimates 892
of the amounts by which energy consumption and resultant 893
operational and maintenance costs, as defined by the commission, 894
would be reduced. 895

If the board finds after receiving the report that the 896
amount of money the district would spend on such installations, 897
modifications, or remodeling is not likely to exceed the amount 898
of money it would save in energy and resultant operational and 899
maintenance costs over the ensuing fifteen years, the board may 900
submit to the commission a copy of its findings and a request 901
for approval to incur indebtedness to finance the making or 902
modification of installations or the remodeling of buildings for 903
the purpose of significantly reducing energy consumption. 904

The facilities construction commission, in consultation 905
with the auditor of state, may deny a request under division (G) 906
(1) of this section by the board of education of any school 907
district that is in a state of fiscal watch pursuant to division 908
(A) of section 3316.03 of the Revised Code, if it determines 909
that the expenditure of funds is not in the best interest of the 910
school district. 911

No district board of education of a school district that 912
is in a state of fiscal emergency pursuant to division (B) of 913
section 3316.03 of the Revised Code shall submit a request 914

without submitting evidence that the installations, 915
modifications, or remodeling have been approved by the 916
district's financial planning and supervision commission 917
established under section 3316.05 of the Revised Code. 918

No board of education of a school district for which an 919
academic distress commission has been established under section 920
3302.10 of the Revised Code shall submit a request without first 921
receiving approval to incur indebtedness from the district's 922
academic distress commission established under that section, for 923
so long as such commission continues to be required for the 924
district. 925

(2) The board of education may contract with a person 926
experienced in the implementation of student transportation to 927
produce a report that includes an analysis of and 928
recommendations for the use of alternative fuel vehicles by 929
school districts. The report shall include cost estimates 930
detailing the return on investment over the life of the 931
alternative fuel vehicles and environmental impact of 932
alternative fuel vehicles. The report also shall include 933
estimates of all costs associated with alternative fuel 934
transportation, including facility modifications and vehicle 935
purchase costs or conversion costs. 936

If the board finds after receiving the report that the 937
amount of money the district would spend on purchasing 938
alternative fuel vehicles or vehicle conversion is not likely to 939
exceed the amount of money it would save in fuel and resultant 940
operational and maintenance costs over the ensuing five years, 941
the board may submit to the commission a copy of its findings 942
and a request for approval to incur indebtedness to finance the 943
purchase of new alternative fuel vehicles or vehicle conversions 944

for the purpose of reducing fuel costs. 945

The facilities construction commission, in consultation 946
with the auditor of state, may deny a request under division (G) 947
(2) of this section by the board of education of any school 948
district that is in a state of fiscal watch pursuant to division 949
(A) of section 3316.03 of the Revised Code, if it determines 950
that the expenditure of funds is not in the best interest of the 951
school district. 952

No district board of education of a school district that 953
is in a state of fiscal emergency pursuant to division (B) of 954
section 3316.03 of the Revised Code shall submit a request 955
without submitting evidence that the purchase or conversion of 956
alternative fuel vehicles has been approved by the district's 957
financial planning and supervision commission established under 958
section 3316.05 of the Revised Code. 959

No board of education of a school district for which an 960
academic distress commission has been established under section 961
3302.10 of the Revised Code shall submit a request without first 962
receiving approval to incur indebtedness from the district's 963
academic distress commission established under that section, for 964
so long as such commission continues to be required for the 965
district. 966

(3) The facilities construction commission shall approve 967
the board's request provided that the following conditions are 968
satisfied: 969

(a) The commission determines that the board's findings 970
are reasonable. 971

(b) The request for approval is complete. 972

(c) If the request was submitted under division (G) (1) of 973

this section, the installations, modifications, or remodeling 974
are consistent with any project to construct or acquire 975
classroom facilities, or to reconstruct or make additions to 976
existing classroom facilities under sections 3318.01 to 3318.20 977
or sections 3318.40 to 3318.45 of the Revised Code. 978

Upon receipt of the commission's approval, the district 979
may issue securities without a vote of the electors in a 980
principal amount not to exceed nine-tenths of one per cent of 981
its tax valuation for the purpose specified in division (G) (1) 982
or (2) of this section, but the total net indebtedness of the 983
district without a vote of the electors incurred under this and 984
all other sections of the Revised Code, except section 3318.052 985
of the Revised Code, shall not exceed one per cent of the 986
district's tax valuation. 987

(4) (a) So long as any securities issued under division (G) 988
(1) of this section remain outstanding, the board of education 989
shall monitor the energy consumption and resultant operational 990
and maintenance costs of buildings in which installations or 991
modifications have been made or remodeling has been done 992
pursuant to that division. Except as provided in division (G) (4) 993
(b) of this section, the board shall maintain and annually 994
update a report in a form and manner prescribed by the 995
facilities construction commission documenting the reductions in 996
energy consumption and resultant operational and maintenance 997
cost savings attributable to such installations, modifications, 998
or remodeling. The resultant operational and maintenance cost 999
savings shall be certified by the school district treasurer. The 1000
report shall be submitted annually to the commission. 1001

(b) If the facilities construction commission verifies 1002
that the certified annual reports submitted to the commission by 1003

a board of education under division (G) (4) (a) of this section 1004
fulfill the guarantee required under division (B) of section 1005
3313.372 of the Revised Code for three consecutive years, the 1006
board of education shall no longer be subject to the annual 1007
reporting requirements of division (G) (4) (a) of this section. 1008

(5) So long as any securities issued under division (G) (2) 1009
of this section remain outstanding, the board of education shall 1010
monitor the purchase of new alternative fuel vehicles or vehicle 1011
conversions pursuant to that division. The board shall maintain 1012
and annually update a report in a form and manner prescribed by 1013
the facilities construction commission documenting the purchase 1014
of new alternative fuel vehicles or vehicle conversions, the 1015
associated environmental impact, and return on investment. The 1016
resultant fuel and operational and maintenance cost savings 1017
shall be certified by the school district treasurer. The report 1018
shall be submitted annually to the commission. 1019

(H) With the consent of the superintendent of public 1020
instruction, a school district may incur without a vote of the 1021
electors net indebtedness that exceeds the amounts stated in 1022
divisions (A) and (G) of this section for the purpose of paying 1023
costs of permanent improvements, if and to the extent that both 1024
of the following conditions are satisfied: 1025

(1) The fiscal officer of the school district estimates 1026
that receipts of the school district from payments made under or 1027
pursuant to agreements entered into pursuant to section 725.02, 1028
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 1029
5709.45, 5709.57, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 1030
or 5709.82 of the Revised Code, or distributions under division 1031
(C) of section 5709.43 or division (B) of section 5709.47 of the 1032
Revised Code, or any combination thereof, are, after accounting 1033

for any appropriate coverage requirements, sufficient in time 1034
and amount, and are committed by the proceedings, to pay the 1035
debt charges on the securities issued to evidence that 1036
indebtedness and payable from those receipts, and the taxing 1037
authority of the district confirms the fiscal officer's 1038
estimate, which confirmation is approved by the superintendent 1039
of public instruction; 1040

(2) The fiscal officer of the school district certifies, 1041
and the taxing authority of the district confirms, that the 1042
district, at the time of the certification and confirmation, 1043
reasonably expects to have sufficient revenue available for the 1044
purpose of operating such permanent improvements for their 1045
intended purpose upon acquisition or completion thereof, and the 1046
superintendent of public instruction approves the taxing 1047
authority's confirmation. 1048

The maximum maturity of securities issued under division 1049
(H) of this section shall be the lesser of twenty years or the 1050
maximum maturity calculated under section 133.20 of the Revised 1051
Code. 1052

(I) A school district may incur net indebtedness by the 1053
issuance of securities in accordance with the provisions of this 1054
chapter in excess of the limit specified in division (B) or (C) 1055
of this section when necessary to raise the school district 1056
portion of the basic project cost and any additional funds 1057
necessary to participate in a project under Chapter 3318. of the 1058
Revised Code, including the cost of items designated by the 1059
facilities construction commission as required locally funded 1060
initiatives, the cost of other locally funded initiatives in an 1061
amount that does not exceed fifty per cent of the district's 1062
portion of the basic project cost, and the cost for site 1063

acquisition. The commission shall notify the superintendent of 1064
public instruction whenever a school district will exceed either 1065
limit pursuant to this division. 1066

(J) A school district whose portion of the basic project 1067
cost of its classroom facilities project under sections 3318.01 1068
to 3318.20 of the Revised Code is greater than or equal to one 1069
hundred million dollars may incur without a vote of the electors 1070
net indebtedness in an amount up to two per cent of its tax 1071
valuation through the issuance of general obligation securities 1072
in order to generate all or part of the amount of its portion of 1073
the basic project cost if the controlling board has approved the 1074
facilities construction commission's conditional approval of the 1075
project under section 3318.04 of the Revised Code. The school 1076
district board and the Ohio facilities construction commission 1077
shall include the dedication of the proceeds of such securities 1078
in the agreement entered into under section 3318.08 of the 1079
Revised Code. No state moneys shall be released for a project to 1080
which this section applies until the proceeds of any bonds 1081
issued under this section that are dedicated for the payment of 1082
the school district portion of the project are first deposited 1083
into the school district's project construction fund. 1084

Sec. 133.07. (A) A county shall not incur, without a vote 1085
of the electors, either of the following: 1086

(1) Net indebtedness for all purposes that exceeds an 1087
amount equal to one per cent of its tax valuation; 1088

(2) Net indebtedness for the purpose of paying the 1089
county's share of the cost of the construction, improvement, 1090
maintenance, or repair of state highways that exceeds an amount 1091
equal to one-half of one per cent of its tax valuation. 1092

(B) A county shall not incur total net indebtedness that exceeds an amount equal to one of the following limitations that applies to the county:

(1) A county with a valuation not exceeding one hundred million dollars, three per cent of that tax valuation;

(2) A county with a tax valuation exceeding one hundred million dollars but not exceeding three hundred million dollars, three million dollars plus one and one-half per cent of that tax valuation in excess of one hundred million dollars;

(3) A county with a tax valuation exceeding three hundred million dollars, six million dollars plus two and one-half per cent of that tax valuation in excess of three hundred million dollars.

(C) In calculating the net indebtedness of a county, none of the following securities shall be considered:

(1) Securities described in section 307.201 of the Revised Code;

(2) Self-supporting securities issued for any purposes, including, but not limited to, any of the following general purposes:

(a) Water systems or facilities;

(b) Sanitary sewerage systems or facilities, or surface and storm water drainage and sewerage systems or facilities, or a combination of those systems or facilities;

(c) County or joint county scrap tire collection, storage, monocell, monofill, or recovery facilities, or any combination of those facilities;

(d) Off-street parking lots, facilities, or buildings, or	1120
on-street parking facilities, or any combination of off-street	1121
and on-street parking facilities;	1122
(e) Facilities for the care or treatment of the sick or	1123
infirm, and for housing the persons providing that care or	1124
treatment and their families;	1125
(f) Recreational, sports, convention, auditorium, museum,	1126
trade show, and other public attraction facilities;	1127
(g) Facilities for natural resources exploration,	1128
development, recovery, use, and sale;	1129
(h) Correctional and detention facilities and related	1130
rehabilitation facilities.	1131
(3) Securities issued for the purpose of purchasing,	1132
constructing, improving, or extending water or sanitary or	1133
surface and storm water sewerage systems or facilities, or a	1134
combination of those systems or facilities, to the extent that	1135
an agreement entered into with another subdivision requires the	1136
other subdivision to pay to the county amounts equivalent to	1137
debt charges on the securities;	1138
(4) Voted general obligation securities issued for the	1139
purpose of permanent improvements for sanitary sewerage or water	1140
systems or facilities to the extent that the total principal	1141
amount of voted securities outstanding for the purpose does not	1142
exceed an amount equal to two per cent of the county's tax	1143
valuation;	1144
(5) Securities issued for permanent improvements to house	1145
agencies, departments, boards, or commissions of the county or	1146
of any municipal corporation located, in whole or in part, in	1147
the county, to the extent that the revenues, other than revenues	1148

from unvoted county property taxes, derived from leases or other 1149
agreements between the county and those agencies, departments, 1150
boards, commissions, or municipal corporations relating to the 1151
use of the permanent improvements are sufficient to cover the 1152
cost of all operating expenses of the permanent improvements 1153
paid by the county and debt charges on the securities; 1154

(6) Securities issued pursuant to section 133.08 of the 1155
Revised Code; 1156

(7) Securities issued for the purpose of acquiring or 1157
constructing roads, highways, bridges, or viaducts, for the 1158
purpose of acquiring or making other highway permanent 1159
improvements, or for the purpose of procuring and maintaining 1160
computer systems for the office of the clerk of any county- 1161
operated municipal court, for the office of the clerk of the 1162
court of common pleas, or for the office of the clerk of the 1163
probate, juvenile, or domestic relations division of the court 1164
of common pleas to the extent that the legislation authorizing 1165
the issuance of the securities includes a covenant to 1166
appropriate from moneys distributed to the county pursuant to 1167
division (B) of section 2101.162, 2151.541, 2153.081, 2301.031, 1168
or 2303.201 or Chapter 4501., 4503., 4504., or 5735. of the 1169
Revised Code a sufficient amount to cover debt charges on and 1170
financing costs relating to the securities as they become due; 1171

(8) Securities issued for the purpose of acquiring, 1172
constructing, improving, and equipping a county, multicounty, or 1173
multicounty-municipal jail, workhouse, juvenile detention 1174
facility, or correctional facility; 1175

(9) Securities issued for the acquisition, construction, 1176
equipping, or repair of any permanent improvement or any class 1177
or group of permanent improvements enumerated in a resolution 1178

adopted pursuant to division (D) of section 5739.026, or under 1179
division ~~(A)(10)~~ (J) of section 5739.09, of the Revised Code to 1180
the extent that the legislation authorizing the issuance of the 1181
securities includes a covenant to appropriate from moneys 1182
received from the taxes authorized under section 5739.023 and 1183
division (A)(5) of section 5739.026, or under division ~~(A)(10)~~ 1184
(J) of section 5739.09, of the Revised Code, respectively, an 1185
amount sufficient to pay debt charges on the securities and 1186
those moneys shall be pledged for that purpose; 1187

(10) Securities issued for county or joint county solid 1188
waste or hazardous waste collection, transfer, or disposal 1189
facilities, or resource recovery and solid or hazardous waste 1190
recycling facilities, or any combination of those facilities; 1191

(11) Securities issued for the acquisition, construction, 1192
and equipping of a port authority educational and cultural 1193
facility under section 307.671 of the Revised Code; 1194

(12) Securities issued for the acquisition, construction, 1195
equipping, and improving of a municipal educational and cultural 1196
facility under division (B)(1) of section 307.672 of the Revised 1197
Code; 1198

(13) Securities issued for energy conservation measures 1199
under section 307.041 of the Revised Code; 1200

(14) Securities issued for the acquisition, construction, 1201
equipping, improving, or repair of a sports facility, including 1202
obligations issued to pay costs of a sports facility under 1203
section 307.673 of the Revised Code; 1204

(15) Securities issued under section 755.17 of the Revised 1205
Code if the legislation authorizing issuance of the securities 1206
includes a covenant to appropriate from revenue received from a 1207

tax authorized under division (A) (5) of section 5739.026 and 1208
section 5741.023 of the Revised Code an amount sufficient to pay 1209
debt charges on the securities, and the board of county 1210
commissioners pledges that revenue for that purpose, pursuant to 1211
section 755.171 of the Revised Code; 1212

(16) Sales tax supported bonds issued pursuant to section 1213
133.081 of the Revised Code for the purpose of acquiring, 1214
constructing, improving, or equipping any permanent improvement 1215
to the extent that the legislation authorizing the issuance of 1216
the sales tax supported bonds pledges county sales taxes to the 1217
payment of debt charges on the sales tax supported bonds and 1218
contains a covenant to appropriate from county sales taxes a 1219
sufficient amount to cover debt charges or the financing costs 1220
related to the sales tax supported bonds as they become due; 1221

(17) Bonds or notes issued under section 133.60 of the 1222
Revised Code if the legislation authorizing issuance of the 1223
bonds or notes includes a covenant to appropriate from revenue 1224
received from a tax authorized under division (A) (9) of section 1225
5739.026 and section 5741.023 of the Revised Code an amount 1226
sufficient to pay the debt charges on the bonds or notes, and 1227
the board of county commissioners pledges that revenue for that 1228
purpose; 1229

(18) Securities issued under section 3707.55 of the 1230
Revised Code for the acquisition of real property by a general 1231
health district; 1232

(19) Securities issued under division (A) (3) of section 1233
3313.37 of the Revised Code for the acquisition of real and 1234
personal property by an educational service center; 1235

(20) Securities issued for the purpose of paying the costs 1236

of acquiring, constructing, reconstructing, renovating, 1237
rehabilitating, expanding, adding to, equipping, furnishing, or 1238
otherwise improving an arena, convention center, or a 1239
combination of an arena and convention center under section 1240
307.695 of the Revised Code; 1241

(21) Securities issued for the purpose of paying project 1242
costs under section 307.678 of the Revised Code; 1243

(22) Securities issued for the purpose of paying project 1244
costs under section 307.679 of the Revised Code. 1245

(D) In calculating the net indebtedness of a county, no 1246
obligation incurred under division (F) of section 339.06 of the 1247
Revised Code shall be considered. 1248

Sec. 133.18. (A) The taxing authority of a subdivision may 1249
by legislation submit to the electors of the subdivision the 1250
question of issuing any general obligation bonds, for one 1251
purpose, that the subdivision has power or authority to issue. 1252

(B) When the taxing authority of a subdivision desires or 1253
is required by law to submit the question of a bond issue to the 1254
electors, it shall pass legislation that does all of the 1255
following: 1256

(1) Declares the necessity and purpose of the bond issue; 1257

(2) States the date of the authorized election at which 1258
the question shall be submitted to the electors; 1259

(3) States the amount, approximate date, estimated net 1260
average rate of interest, and maximum number of years over which 1261
the principal of the bonds may be paid; 1262

(4) Declares the necessity of levying a tax outside the 1263
tax limitation to pay the debt charges on the bonds and any 1264

anticipatory securities. 1265

The estimated net average interest rate shall be 1266
determined by the taxing authority based on, among other 1267
factors, then existing market conditions, and may reflect 1268
adjustments for any anticipated direct payments expected to be 1269
received by the taxing authority from the government of the 1270
United States relating to the bonds and the effect of any 1271
federal tax credits anticipated to be available to owners of all 1272
or a portion of the bonds. The estimated net average rate of 1273
interest, and any statutory or charter limit on interest rates 1274
that may then be in effect and that is subsequently amended, 1275
shall not be a limitation on the actual interest rate or rates 1276
on the securities when issued. 1277

(C) ~~(1)~~ The taxing authority shall certify a copy of the 1278
legislation passed under division (B) of this section to the 1279
county auditor. The county auditor shall promptly calculate and 1280
advise and, not later than ninety days before the election, 1281
confirm that advice by certification to, the taxing authority 1282
the estimated average annual property tax levy, expressed in 1283
cents or dollars and cents for each one hundred dollars of tax 1284
valuation and in mills for each one dollar of tax valuation, 1285
that the county auditor estimates to be required throughout the 1286
stated maturity of the bonds to pay the debt charges on the 1287
bonds. In calculating the estimated average annual property tax 1288
levy for this purpose, the county auditor shall assume that the 1289
bonds are issued in one series bearing interest and maturing in 1290
substantially equal principal amounts in each year over the 1291
maximum number of years over which the principal of the bonds 1292
may be paid as stated in that legislation, and that the amount 1293
of the tax valuation of the subdivision for the current year 1294
remains the same throughout the maturity of the bonds, ~~except as~~ 1295

~~otherwise provided in division (C) (2) of this section.~~ If the 1296
tax valuation for the current year is not determined, the county 1297
auditor shall base the calculation on the estimated amount of 1298
the tax valuation submitted by the county auditor to the county 1299
budget commission. If the subdivision is located in more than 1300
one county, the county auditor shall obtain the assistance of 1301
the county auditors of the other counties, and those county 1302
auditors shall provide assistance, in establishing the tax 1303
valuation of the subdivision for purposes of certifying the 1304
estimated average annual property tax levy. 1305

~~(2) When considering the tangible personal property 1306
component of the tax valuation of the subdivision, the county 1307
auditor shall take into account the assessment percentages 1308
prescribed in section 5711.22 of the Revised Code. The tax 1309
commissioner may issue rules, orders, or instructions directing 1310
how the assessment percentages must be utilized. 1311~~

(D) After receiving the county auditor's advice under 1312
division (C) of this section, the taxing authority by 1313
legislation may determine to proceed with submitting the 1314
question of the issue of securities, and shall, not later than 1315
the ninetieth day before the day of the election, file the 1316
following with the board of elections: 1317

(1) Copies of the legislation provided for in divisions 1318
(B) and (D) of this section; 1319

(2) The amount of the estimated average annual property 1320
tax levy, expressed in cents or dollars and cents for each one 1321
hundred dollars of tax valuation and in mills for each one 1322
dollar of tax valuation, as estimated and certified to the 1323
taxing authority by the county auditor. 1324

(E) (1) The board of elections shall prepare the ballots 1325
and make other necessary arrangements for the submission of the 1326
question to the electors of the subdivision. If the subdivision 1327
is located in more than one county, the board shall inform the 1328
boards of elections of the other counties of the filings with 1329
it, and those other boards shall if appropriate make the other 1330
necessary arrangements for the election in their counties. The 1331
election shall be conducted, canvassed, and certified in the 1332
manner provided in Title XXXV of the Revised Code. 1333

(2) The election shall be held at the regular places for 1334
voting in the subdivision. If the electors of only a part of a 1335
precinct are qualified to vote at the election the board of 1336
elections may assign the electors in that part to an adjoining 1337
precinct, including an adjoining precinct in another county if 1338
the board of elections of the other county consents to and 1339
approves the assignment. Each elector so assigned shall be 1340
notified of that fact prior to the election by notice mailed by 1341
the board of elections, in such manner as it determines, prior 1342
to the election. 1343

(3) The board of elections shall publish a notice of the 1344
election once in a newspaper of general circulation in the 1345
subdivision, no later than ten days prior to the election. The 1346
notice shall state all of the following: 1347

(a) The principal amount of the proposed bond issue; 1348

(b) The stated purpose for which the bonds are to be 1349
issued; 1350

(c) The maximum number of years over which the principal 1351
of the bonds may be paid; 1352

(d) The estimated additional average annual property tax 1353

levy, expressed in cents or dollars and cents for each one 1354
hundred dollars of tax valuation and in mills for each one 1355
dollar of tax valuation, to be levied outside the tax 1356
limitation, as estimated and certified to the taxing authority 1357
by the county auditor; 1358

(e) The first calendar year in which the tax is expected 1359
to be due. 1360

(F)(1) The form of the ballot to be used at the election 1361
shall be substantially either of the following, as applicable: 1362

(a) "Shall bonds be issued by the (name of 1363
subdivision) for the purpose of (purpose of the bond 1364
issue) in the principal amount of (principal amount 1365
of the bond issue), to be repaid annually over a maximum period 1366
of (the maximum number of years over which the 1367
principal of the bonds may be paid) years, and an annual levy of 1368
property taxes be made outside the (as applicable, 1369
"ten-mill" or "...charter tax") limitation, estimated by the 1370
county auditor to average over the repayment period of the bond 1371
issue (number of mills) mills for each one dollar of 1372
tax valuation, which amounts to (rate expressed in 1373
cents or dollars and cents, such as "36 cents" or "\$1.41") for 1374
each one hundred dollars of tax valuation, commencing 1375
in (first year the tax will be levied), first due in 1376
calendar year (first calendar year in which the tax 1377
shall be due), to pay the annual debt charges on the bonds, and 1378
to pay debt charges on any notes issued in anticipation of those 1379
bonds? 1380

| For the bond issue
| Against the bond issue

1381
1382
1383

" 1384

(b) In the case of an election held pursuant to 1385
legislation adopted under section 3375.43 or 3375.431 of the 1386
Revised Code: 1387

"Shall bonds be issued for (name of library) 1388
for the purpose of (purpose of the bond issue), in 1389
the principal amount of (amount of the bond issue) by 1390
..... (the name of the subdivision that is to issue the 1391
bonds and levy the tax) as the issuer of the bonds, to be repaid 1392
annually over a maximum period of (the maximum number 1393
of years over which the principal of the bonds may be paid) 1394
years, and an annual levy of property taxes be made outside the 1395
ten-mill limitation, estimated by the county auditor to average 1396
over the repayment period of the bond issue (number 1397
of mills) mills for each one dollar of tax valuation, which 1398
amounts to (rate expressed in cents or dollars and 1399
cents, such as "36 cents" or "\$1.41") for each one hundred 1400
dollars of tax valuation, commencing in (first year 1401
the tax will be levied), first due in calendar year 1402
(first calendar year in which the tax shall be due), to pay the 1403
annual debt charges on the bonds, and to pay debt charges on any 1404
notes issued in anticipation of those bonds? 1405

| For the bond issue
| Against the bond issue

" 1406
1407
1408
1409

(2) The purpose for which the bonds are to be issued shall 1410
be printed in the space indicated, in boldface type. 1411

(G) The board of elections shall promptly certify the 1412

results of the election to the tax commissioner, the county auditor of each county in which any part of the subdivision is located, and the fiscal officer of the subdivision. The election, including the proceedings for and result of the election, is incontestable other than in a contest filed under section 3515.09 of the Revised Code in which the plaintiff prevails.

(H) If a majority of the electors voting upon the question vote for it, the taxing authority of the subdivision may proceed under sections 133.21 to 133.33 of the Revised Code with the issuance of the securities and with the levy and collection of a property tax outside the tax limitation during the period the securities are outstanding sufficient in amount to pay the debt charges on the securities, including debt charges on any anticipatory securities required to be paid from that tax. If legislation passed under section 133.22 or 133.23 of the Revised Code authorizing those securities is filed with the county auditor on or before the last day of November, the amount of the voted property tax levy required to pay debt charges or estimated debt charges on the securities payable in the following year shall if requested by the taxing authority be included in the taxes levied for collection in the following year under section 319.30 of the Revised Code.

(I) (1) If, before any securities authorized at an election under this section are issued, the net indebtedness of the subdivision exceeds that applicable to that subdivision or those securities, then and so long as that is the case none of the securities may be issued.

(2) No securities authorized at an election under this section may be initially issued after the first day of the sixth

January following the election, but this period of limitation 1443
shall not run for any time during which any part of the 1444
permanent improvement for which the securities have been 1445
authorized, or the issuing or validity of any part of the 1446
securities issued or to be issued, or the related proceedings, 1447
is involved or questioned before a court or a commission or 1448
other tribunal, administrative agency, or board. 1449

(3) Securities representing a portion of the amount 1450
authorized at an election that are issued within the applicable 1451
limitation on net indebtedness are valid and in no manner 1452
affected by the fact that the balance of the securities 1453
authorized cannot be issued by reason of the net indebtedness 1454
limitation or lapse of time. 1455

(4) Nothing in this division (I) shall be interpreted or 1456
applied to prevent the issuance of securities in an amount to 1457
fund or refund anticipatory securities lawfully issued. 1458

(5) The limitations of divisions (I) (1) and (2) of this 1459
section do not apply to any securities authorized at an election 1460
under this section if at least ten per cent of the principal 1461
amount of the securities, including anticipatory securities, 1462
authorized has theretofore been issued, or if the securities are 1463
to be issued for the purpose of participating in any federally 1464
or state-assisted program. 1465

(6) The certificate of the fiscal officer of the 1466
subdivision is conclusive proof of the facts referred to in this 1467
division. 1468

Sec. 135.142. (A) In addition to the investments 1469
authorized by section 135.14 of the Revised Code, any board of 1470
education, by a two-thirds vote of its members, may authorize 1471

the treasurer of the board of education to invest up to forty 1472
per cent of the interim moneys of the board, available for 1473
investment at any one time, in either of the following: 1474

(1) Commercial paper notes issued by any entity that is 1475
defined in division (D) of section 1705.01 of the Revised Code 1476
and has assets exceeding five hundred million dollars, and to 1477
which notes all of the following apply: 1478

(a) The notes are rated at the time of purchase in the 1479
highest classification established by at least two nationally 1480
recognized standard rating services. 1481

(b) The aggregate value of the notes does not exceed ten 1482
per cent of the aggregate value of the outstanding commercial 1483
paper of the issuing corporation. 1484

(c) The notes mature no later than two hundred seventy 1485
days after purchase. 1486

(d) The investment in commercial paper notes of a single 1487
issuer shall not exceed in the aggregate five per cent of 1488
interim moneys of the board available for investment at the time 1489
of purchase. 1490

(2) Bankers' acceptances of banks that are insured by the 1491
federal deposit insurance corporation and that mature no later 1492
than one hundred eighty days after purchase. 1493

(B) No investment authorized pursuant to division (A) of 1494
this section shall be made, whether or not authorized by a board 1495
of education, unless the treasurer of the board of education has 1496
completed additional training for making the types of 1497
investments authorized pursuant to division (A) of this section. 1498
The type and amount of such training shall be approved and may 1499
be conducted by or provided under the supervision of the 1500

treasurer of state. 1501

(C) The treasurer of the board of education shall prepare 1502
annually and submit to the board of education, the 1503
superintendent of public instruction, and the auditor of state, 1504
on or before the thirty-first day of August, a report listing 1505
each investment made pursuant to division (A) of this section 1506
during the preceding fiscal year, income earned from such 1507
investments, fees and commissions paid pursuant to division (D) 1508
of this section, and any other information required by the 1509
board, the superintendent, and the auditor of state. 1510

(D) A board of education may make appropriations and 1511
expenditures for fees and commissions in connection with 1512
investments made pursuant to division (A) of this section. 1513

(E) (1) In addition to the investments authorized by 1514
section 135.14 of the Revised Code and division (A) of this 1515
section, any board of education that is a party to an agreement 1516
with the treasurer of state pursuant to division (G) of section 1517
135.143 of the Revised Code and that has outstanding obligations 1518
issued under authority of section 133.10 ~~or 133.301~~ of the 1519
Revised Code may authorize the treasurer of the board of 1520
education to invest interim moneys of the board in debt 1521
interests rated in either of the two highest rating 1522
classifications by at least two nationally recognized standard 1523
rating services and issued by entities that are defined in 1524
division (D) of section 1705.01 of the Revised Code. The debt 1525
interests purchased under authority of division (E) of this 1526
section shall mature not later than the latest maturity date of 1527
the outstanding obligations issued under authority of section 1528
133.10 or 133.301 of the Revised Code. 1529

(2) If any of the debt interests acquired under division 1530

(E) (1) of this section ceases to be rated as there required, its
issuer shall notify the treasurer of state of this fact within
twenty-four hours. At any time thereafter the treasurer of state
may require collateralization at the rate of one hundred two per
cent of any remaining obligation of the entity, with securities
authorized for investment under section 135.143 of the Revised
Code. The collateral shall be delivered to and held by a
custodian acceptable to the treasurer of state, marked to market
daily, and any default to be cured within twelve hours.
Unlimited substitution shall be allowed of comparable
securities.

Sec. 305.31. The procedure for submitting to a referendum
a resolution adopted by a board of county commissioners under
division (H) of section 307.695 of the Revised Code that is not
submitted to the electors of the county for their approval or
disapproval; any resolution adopted by a board of county
commissioners pursuant to division (D) (1) of section 307.697,
section 322.02, or 322.06, sections 940.31 and 940.33, division
(B) (1) of section 4301.421, section 4504.02, 5739.021, or
5739.026, division ~~(A) (6) (F)~~, ~~(A) (10) (J)~~, or ~~(M) (U)~~ of section
5739.09, section 5741.021 or 5741.023, or division (C) (1) of
section 5743.024 of the Revised Code; or a rule adopted pursuant
to section 307.79 of the Revised Code shall be as prescribed by
this section.

Except as otherwise provided in this paragraph, when a
petition, signed by ten per cent of the number of electors who
voted for governor at the most recent general election for the
office of governor in the county, is filed with the county
auditor within thirty days after the date the resolution is
passed or rule is adopted by the board of county commissioners,
or is filed within forty-five days after the resolution is

passed, in the case of a resolution adopted pursuant to section 1562
5739.021 of the Revised Code that is passed within one year 1563
after a resolution adopted pursuant to that section has been 1564
rejected or repealed by the electors, requesting that the 1565
resolution be submitted to the electors of the county for their 1566
approval or rejection, the county auditor shall, after ten days 1567
following the filing of the petition, and not later than four 1568
p.m. of the ninetieth day before the day of election, transmit a 1569
certified copy of the text of the resolution or rule to the 1570
board of elections. In the case of a petition requesting that a 1571
resolution adopted under division (D) (1) of section 307.697, 1572
division (B) (1) of section 4301.421, or division (C) (1) of 1573
section 5743.024 of the Revised Code be submitted to electors 1574
for their approval or rejection, the petition shall be signed by 1575
seven per cent of the number of electors who voted for governor 1576
at the most recent election for the office of governor in the 1577
county. The county auditor shall transmit the petition to the 1578
board together with the certified copy of the resolution or 1579
rule. The board shall examine all signatures on the petition to 1580
determine the number of electors of the county who signed the 1581
petition. The board shall return the petition to the auditor 1582
within ten days after receiving it, together with a statement 1583
attesting to the number of such electors who signed the 1584
petition. The board shall submit the resolution or rule to the 1585
electors of the county, for their approval or rejection, at the 1586
succeeding general election held in the county in any year, or 1587
on the day of the succeeding primary election held in the county 1588
in even-numbered years, occurring subsequent to ninety days 1589
after the auditor certifies the sufficiency and validity of the 1590
petition to the board of elections. 1591

No resolution shall go into effect until approved by the 1592

majority of those voting upon it. However, a rule shall take 1593
effect and remain in effect unless and until a majority of the 1594
electors voting on the question of repeal approve the repeal. 1595
Sections 305.31 to 305.41 of the Revised Code do not prevent a 1596
county, after the passage of any resolution or adoption of any 1597
rule, from proceeding at once to give any notice or make any 1598
publication required by the resolution or rule. 1599

The board of county commissioners shall make available to 1600
any person, upon request, a certified copy of any resolution or 1601
rule subject to the procedure for submitting a referendum under 1602
sections 305.31 to 305.42 of the Revised Code beginning on the 1603
date the resolution or rule is adopted by the board. The board 1604
may charge a fee for the cost of copying the resolution or rule. 1605

As used in this section, "certified copy" means a copy 1606
containing a written statement attesting that it is a true and 1607
exact reproduction of the original resolution or rule. 1608

Sec. 306.322. (A) For any regional transit authority that 1609
levies a property tax and that includes in its membership 1610
political subdivisions that are located in a county having a 1611
population of at least four hundred thousand according to the 1612
most recent federal census, the procedures of this section apply 1613
until November 5, 2013, and are in addition to and an 1614
alternative to those established in sections 306.32 and 306.321 1615
of the Revised Code for joining to the regional transit 1616
authority additional counties, municipal corporations, or 1617
townships. 1618

(B) Any municipal corporation or township may adopt a 1619
resolution or ordinance proposing to join a regional transit 1620
authority described in division (A) of this section. In its 1621
resolution or ordinance, the political subdivision may propose 1622

joining the regional transit authority for a limited period of 1623
three years or without a time limit. 1624

(C) The political subdivision proposing to join the 1625
regional transit authority shall submit a copy of its resolution 1626
or ordinance to the legislative authority of each municipal 1627
corporation and the board of trustees of each township 1628
comprising the regional transit authority. Within thirty days of 1629
receiving the resolution or ordinance for inclusion in the 1630
regional transit authority, the legislative authority of each 1631
municipal corporation and the board of trustees of each township 1632
shall consider the question of whether to include the additional 1633
subdivision in the regional transit authority, shall adopt a 1634
resolution or ordinance approving or rejecting the inclusion of 1635
the additional subdivision, and shall present its resolution or 1636
ordinance to the board of trustees of the regional transit 1637
authority. 1638

(D) If a majority of the political subdivisions comprising 1639
the regional transit authority approve the inclusion of the 1640
additional political subdivision, the board of trustees of the 1641
regional transit authority, not later than the tenth day 1642
following the day on which the last ordinance or resolution is 1643
presented, shall notify the subdivision proposing to join the 1644
regional transit authority that it may certify the proposal to 1645
the board of elections for the purpose of having the proposal 1646
placed on the ballot at the next general election or at a 1647
special election conducted on the day of the next primary 1648
election that occurs not less than ninety days after the 1649
resolution or ordinance is certified to the board of elections. 1650

(E) Upon certification of a proposal to the board of 1651
elections pursuant to this section, the board of elections shall 1652

make the necessary arrangements for the submission of the 1653
question to the electors of the territory to be included in the 1654
regional transit authority qualified to vote on the question, 1655
and the election shall be held, canvassed, and certified in the 1656
same manner as regular elections for the election of officers of 1657
the subdivision proposing to join the regional transit 1658
authority, except that, if the resolution proposed the inclusion 1659
without a time limitation the question appearing on the ballot 1660
shall read: 1661

"Shall the territory within the 1662
(Name or names of political subdivisions to be joined) be added 1663
to (Name) regional transit 1664
authority?" and shall a(n) (here insert type of tax 1665
or taxes) at a rate of taxation not to exceed (here insert 1666
maximum tax rate or rates) be levied for all transit purposes?" 1667

If the resolution proposed the inclusion with a three-year 1668
time limitation, the question appearing on the ballot shall 1669
read: 1670

"Shall the territory within the 1671
(Name or names of political subdivisions to be joined) be added 1672
to (Name) regional transit 1673
authority?" for three years and shall a(n) (here 1674
insert type of tax or taxes) at a rate of taxation not to exceed 1675
..... (here insert maximum tax rate or rates) be levied for all 1676
transit purposes for three years?" 1677

(F) If the question is approved by at least a majority of 1678
the electors voting on the question, the addition of the new 1679
territory is effective six months from the date of the 1680
certification of its passage, and the regional transit authority 1681
may extend the levy of the tax against all the taxable property 1682

within the territory that was added. If the question is approved 1683
at a general election or at a special election occurring prior 1684
to the general election but after the fifteenth day of July, the 1685
regional transit authority may amend its budget and resolution 1686
adopted pursuant to section 5705.34 of the Revised Code, and the 1687
levy shall be placed on the current tax list and duplicate and 1688
collected as other taxes are collected from all taxable property 1689
within the territorial boundaries of the regional transit 1690
authority, including the territory within the political 1691
subdivision added as a result of the election. If the budget of 1692
the regional transit authority is amended pursuant to this 1693
paragraph, the county auditor shall prepare and deliver an 1694
amended certificate of estimated resources to reflect the change 1695
in anticipated revenues of the regional transit authority. 1696

(G) If the question is approved by at least a majority of 1697
the electors voting on the question, the board of trustees of 1698
the regional transit authority immediately shall amend the 1699
resolution or ordinance creating the regional transit authority 1700
to include the additional political subdivision. 1701

(H) If the question approved by a majority of the electors 1702
voting on the question added the subdivision for three years, 1703
the territory of the additional municipal corporation or 1704
township in the regional transit authority shall be removed from 1705
the territory of the regional transit authority three years 1706
after the date the territory was added, as determined in the 1707
effective date of the election, and shall no longer be a part of 1708
that authority without any further action by either the 1709
political subdivisions that were included in the authority prior 1710
to submitting the question to the electors or of the political 1711
subdivision added to the authority as a result of the election. 1712
The regional transit authority reduced to its territory as it 1713

existed prior to the inclusion of the additional municipal 1714
corporation or township shall be entitled to levy and collect 1715
any property taxes that it was authorized to levy and collect 1716
prior to the enlargement of its territory and for which 1717
authorization has not expired, as if the enlargement had not 1718
occurred. 1719

Sec. 307.671. (A) As used in this section: 1720

(1) "Bonds" means, as the context requires: general 1721
obligation bonds of the county, or notes in anticipation 1722
thereof, described in division (B) (1) (b) of this section; 1723
revenue bonds of the port authority described in division (B) (2) 1724
(a) of this section; and urban renewal bonds, or notes in 1725
anticipation thereof, of the host municipal corporation 1726
described in division (B) (3) (a) of this section. 1727

(2) "Corporation" means a nonprofit corporation that is 1728
organized under the laws of this state and that includes within 1729
the purposes for which it is incorporated the authorization to 1730
lease and operate facilities such as a port authority 1731
educational and cultural facility. 1732

(3) "Debt service charges" means, for any period or 1733
payable at any time, the principal of and interest and any 1734
premium due on bonds for that period or payable at that time 1735
whether due at maturity or upon mandatory redemption, together 1736
with any required deposits to reserves for the payment of 1737
principal of and interest on such bonds, and includes any 1738
payments required by the port authority to satisfy any of its 1739
obligations arising from any guaranty agreements, reimbursement 1740
agreements, or other credit enhancement agreements described in 1741
division (C) of this section. 1742

(4) "Host municipal corporation" means the municipal corporation within the boundaries of which the port authority educational and cultural facility is located.

(5) "Port authority" means a port authority created pursuant to the authority of section 4582.02 of the Revised Code by a county and a host municipal corporation.

(6) "Port authority educational and cultural facility" means a facility located within an urban renewal area that may consist of a museum, archives, library, hall of fame, center for contemporary music, or other facilities necessary to provide programs of an educational and cultural nature, together with all parking facilities, walkways, and other auxiliary facilities, real and personal property, property rights, easements, and interests that may be appropriate for, or used in connection with, the operation of the facility.

(7) "Urban renewal area" means an area of a host municipal corporation that the legislative authority of the host municipal corporation has, at any time, designated as appropriate for an urban renewal project pursuant to Chapter 725. of the Revised Code.

(B) The board of county commissioners of a county, a port authority, and a host municipal corporation may enter into a cooperative agreement with a corporation, under which:

(1) The board of county commissioners agrees to do all of the following:

(a) Levy a tax under division ~~(D)~~(N) of section 5739.09 of the Revised Code exclusively for the purposes described in divisions (B) (1) (c) and (d) of this section;

(b) Issue general obligation bonds of the county, or notes

in anticipation thereof, pursuant to Chapter 133. of the Revised 1772
Code, for the purpose of acquiring, constructing, and equipping 1773
the port authority educational and cultural facility and 1774
contribute the proceeds from the issuance to the port authority 1775
for such purpose. The cooperative agreement may provide that 1776
such proceeds be deposited with and administered by the trustee 1777
pursuant to the trust agreement provided for in division (C) of 1778
this section. 1779

(c) Following the issuance, sale, and delivery of the port 1780
authority revenue bonds provided for in division (B) (2) (a) of 1781
this section, and prior to the date certain stated in the 1782
cooperative agreement which shall be the date estimated for the 1783
completion of construction of the port authority educational and 1784
cultural facility, pledge and contribute to the port authority 1785
revenue from the tax levied pursuant to division (B) (1) (a) of 1786
this section, together with any investment earnings on that 1787
revenue, to pay a portion of the costs of acquiring, 1788
constructing, and equipping the port authority educational and 1789
cultural facility; 1790

(d) Following such date certain, pledge and contribute to 1791
the corporation all or such portion as provided for in the 1792
cooperative agreement of the revenue from the tax, together with 1793
any investment earnings on that revenue, to pay a portion of the 1794
costs of the corporation of leasing the port authority 1795
educational and cultural facility from the port authority. 1796

(2) The port authority agrees to do all of the following: 1797

(a) Issue revenue bonds of the port authority pursuant to 1798
Chapter 4582. of the Revised Code for the purpose of acquiring, 1799
constructing, and equipping the port authority educational and 1800
cultural facility; 1801

(b) Construct the port authority educational and cultural facility; 1802
1803

(c) Lease the port authority educational and cultural facility to the corporation; 1804
1805

(d) To the extent provided for in the cooperative agreement or the lease to the corporation, authorize the corporation to administer on behalf of the port authority the contracts for acquiring, constructing, or equipping a port authority educational and cultural facility; 1806
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(e) Use the revenue derived from the lease of the port authority educational and cultural facility to the corporation solely to pay debt service charges on the revenue bonds of the port authority described in division (B) (2) (a) of this section. 1811
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(3) The host municipal corporation agrees to do both of the following: 1815
1816

(a) Issue urban renewal bonds of the host municipal corporation, or notes in anticipation thereof, pursuant to Chapter 725. of the Revised Code for the purpose of acquiring and constructing the port authority educational and cultural facility and contribute the proceeds from the issuance to the port authority for such purpose. The cooperative agreement may provide that such proceeds be deposited with and administered by the trustee pursuant to the trust agreement provided for in division (C) of this section. 1817
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(b) To the extent provided for in the cooperative agreement, contribute to the county, for use by the county to pay debt service charges on the bonds of the county, or notes in anticipation thereof, described in division (B) (1) (b) of this section, any excess urban renewal service payments pledged by 1826
1827
1828
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the host municipal corporation to the urban renewal bonds 1831
described in division (B) (3) (a) of this section and not required 1832
on an annual basis to pay debt service charges on the urban 1833
renewal bonds. 1834

(4) The corporation agrees to do all of the following: 1835

(a) Lease the port authority educational and cultural 1836
facility from the port authority; 1837

(b) Operate and maintain the port authority educational 1838
and cultural facility pursuant to the lease; 1839

(c) To the extent provided for in the cooperative 1840
agreement or the lease from the port authority, administer on 1841
behalf of the port authority the contracts for acquiring, 1842
constructing, or equipping a port authority educational and 1843
cultural facility. 1844

(C) The pledges and contributions described in divisions 1845
(B) (1) (c) and (d) of this section and provided for in the 1846
cooperative agreement shall be for the period stated in the 1847
cooperative agreement, but shall not be in excess of the period 1848
necessary to provide for the final retirement of the port 1849
authority revenue bonds provided for in division (B) (2) (a) of 1850
this section and any bonds issued by the port authority to 1851
refund such bonds, and for the satisfaction by the port 1852
authority of any of its obligations arising from any guaranty 1853
agreements, reimbursement agreements, or other credit 1854
enhancement agreements relating to such bonds or to the revenues 1855
pledged to such bonds. The cooperative agreement shall provide 1856
for the termination of the cooperative agreement including the 1857
pledges and contributions described in divisions (B) (1) (c) and 1858
(d) of this section if the port authority revenue bonds provided 1859

for in division (B) (2) (a) of this section have not been issued, 1860
sold, and delivered within two years of the effective date of 1861
the cooperative agreement. 1862

The cooperative agreement shall provide that any revenue 1863
bonds of the port authority shall be secured by a trust 1864
agreement between the port authority and a corporate trustee 1865
that is a trust company or bank having the powers of a trust 1866
company within or outside the state. The county may be a party 1867
to such trust agreement for the purpose of securing the pledge 1868
by the county of its contribution to the corporation pursuant to 1869
division (B) (1) (d) of this section. A tax levied pursuant to 1870
division (B) (1) (a) of this section is not subject to diminution 1871
by initiative or referendum or diminution by statute, unless 1872
provision is made therein for an adequate substitute therefor 1873
reasonably satisfactory to the trustee under the trust agreement 1874
that secures the revenue bonds of the port authority. 1875

(D) A pledge of money by a county under this section shall 1876
not be net indebtedness of the county for purposes of section 1877
133.07 of the Revised Code. 1878

(E) If the terms of the cooperative agreement so provide, 1879
any contract for the acquisition, construction, or equipping of 1880
a port authority educational and cultural facility shall be made 1881
in such manner as is determined by the board of directors of the 1882
port authority, and unless the cooperative agreement provides 1883
otherwise, such a contract is not subject to division (A) of 1884
section 4582.12 of the Revised Code. The port authority may take 1885
the assignment of and assume any contracts for the acquisition, 1886
construction, and equipping of a port authority educational and 1887
cultural facility that previously have been authorized by either 1888
or both the host municipal corporation or the corporation. Such 1889

contracts likewise are not subject to division (A) of section 1890
4582.12 of the Revised Code. 1891

Any contract for the acquisition, construction, or 1892
equipping of a port authority educational and cultural facility 1893
entered into, assigned, or assumed pursuant to this division 1894
shall provide that all laborers and mechanics employed for the 1895
acquisition, construction, or equipping of the port authority 1896
educational and cultural facility shall be paid at the 1897
prevailing rates of wages of laborers and mechanics for the 1898
class of work called for by the port authority educational and 1899
cultural facility, which wages shall be determined in accordance 1900
with the requirements of Chapter 4115. of the Revised Code for 1901
the determination of prevailing wage rates. 1902

Sec. 307.672. (A) As used in this section: 1903

(1) "Bonds" means general obligation bonds, or notes in 1904
anticipation thereof, of the county described in division (B) (1) 1905
(b) of this section, and general obligation bonds, or notes in 1906
anticipation thereof, of the host municipal corporation 1907
described in division (B) (2) (a) of this section. 1908

(2) "Corporation" means a nonprofit corporation that is 1909
organized under the laws of this state and that includes within 1910
the purposes for which it is incorporated the authorization to 1911
lease and operate facilities such as a municipal educational and 1912
cultural facility. 1913

(3) "Debt service charges" means, for any period or 1914
payable at any time, the principal of and interest and any 1915
premium due on bonds for that period or payable at that time 1916
whether due at maturity or upon mandatory redemption, together 1917
with any required deposits to reserves for the payment of 1918

principal of and interest on such bonds. 1919

(4) "Host municipal corporation" means the municipal 1920
corporation within the boundaries of which a municipal 1921
educational and cultural facility is or will be located. 1922

(5) "Municipal educational and cultural facility" means a 1923
facility that may consist of a museum, archives, library, hall 1924
of fame, center for contemporary music, or other facilities 1925
necessary to provide programs of an educational, recreational, 1926
and cultural nature, together with all parking facilities, 1927
walkways, and other auxiliary facilities, real and personal 1928
property, property rights, easements, and interests that may be 1929
appropriate for, or used in connection with, the operation of 1930
the facility. 1931

(B) The legislative authorities of a county and a host 1932
municipal corporation may enter into a cooperative agreement 1933
with a corporation, under which: 1934

(1) The legislative authority of the county agrees to: 1935

(a) Levy a tax under division ~~(E)~~ (O) of section 5739.09 1936
of the Revised Code, for a period not to exceed fifteen years 1937
unless extended under that division for an additional period of 1938
time, to pay the costs of acquiring, constructing, equipping, 1939
and improving a municipal educational and cultural facility, 1940
including the debt service charges on bonds; 1941

(b) Issue bonds of the county pursuant to Chapter 133. of 1942
the Revised Code for the purpose of acquiring, constructing, 1943
equipping, and improving a municipal educational and cultural 1944
facility; 1945

(c) Contribute revenue from the tax and the proceeds from 1946
the bonds described in divisions (B) (1) (a) and (b) of this 1947

section to the host municipal corporation for the purpose of	1948
acquiring, constructing, equipping, and improving a municipal	1949
educational and cultural facility;	1950
(2) The host municipal corporation agrees to:	1951
(a) Issue bonds of the host municipal corporation pursuant	1952
to Chapter 133. of the Revised Code for the purpose of	1953
acquiring, constructing, equipping, and improving a municipal	1954
educational and cultural facility;	1955
(b) Acquire, construct, equip, and improve a municipal	1956
educational and cultural facility;	1957
(c) Accept from the county pursuant to the cooperative	1958
agreement the revenues of the tax and the proceeds of the bonds	1959
described in divisions (B)(1)(a) and (b) of this section;	1960
(d) Lease a municipal educational and cultural facility to	1961
the corporation, or contract with the corporation for the	1962
operation and maintenance of the facility;	1963
(e) To the extent provided for in the cooperative	1964
agreement or the lease or contract with the corporation,	1965
authorize the corporation to administer on behalf of the host	1966
municipal corporation the contracts for acquiring, constructing,	1967
equipping, and improving a municipal educational and cultural	1968
facility.	1969
(3) The corporation agrees to:	1970
(a) Either lease the municipal educational and cultural	1971
facility from the host municipal corporation and operate and	1972
maintain the facility pursuant to the lease, or enter into a	1973
contract with the host municipal corporation pursuant to which	1974
the corporation shall operate and maintain the facility on	1975

behalf of the host municipal corporation; 1976

(b) To the extent provided for in the cooperative 1977
agreement or the lease or contract with the host municipal 1978
corporation, administer on behalf of the host municipal 1979
corporation the contracts for acquiring, constructing, 1980
equipping, or improving a municipal educational and cultural 1981
facility. 1982

(C) A tax levied pursuant to division ~~(E)~~(O) of section 1983
5739.09 of the Revised Code, the revenue from which is to be 1984
used to pay debt service charges on bonds described in division 1985
(B) (1) or (2) of this section is not subject to diminution by 1986
initiative or referendum or diminution by statute, unless 1987
provision is made therein for an adequate substitute therefor 1988
reasonably satisfactory to the legislative authorities of the 1989
host municipal corporation and the county. 1990

(D) The legislative authorities of a county and a host 1991
municipal corporation that have entered into a cooperative 1992
agreement with a corporation pursuant to division (B) of this 1993
section may amend that cooperative agreement, with the 1994
participation of the corporation and a port authority as defined 1995
in section 307.674 of the Revised Code, to provide also for a 1996
port authority educational and cultural performing arts facility 1997
in accordance with section 307.674 of the Revised Code. Such an 1998
amendment shall become effective only to the extent that the tax 1999
levied under division ~~(E)~~(O) of section 5739.09 of the Revised 2000
Code is not needed for the duration of the original tax to pay 2001
costs of the municipal educational and cultural facility, 2002
including debt service charges on related bonds, as determined 2003
by the parties to the amendment. The tax may be pledged and paid 2004
by the parties to the amendment for the balance of the duration 2005

of the tax to a port authority educational and cultural performing arts facility. 2006
2007

Sec. 307.674. (A) As used in this section: 2008

(1) "Bonds" means: 2009

(a) Revenue bonds of the port authority described in division (B) (2) (a) of this section; 2010
2011

(b) Securities as defined in division (KK) of section 133.01 of the Revised Code issued by the host municipal corporation, described in division (B) (3) (a) of this section; 2012
2013
2014

(c) Any bonds issued to refund any of those revenue bonds or securities. 2015
2016

(2) "Corporation" means a nonprofit corporation that is organized under the laws of this state and that includes within the purposes for which it is incorporated the authorization to lease and operate facilities such as a port authority educational and cultural performing arts facility. 2017
2018
2019
2020
2021

(3) "Cost," as applied to a port authority educational and cultural performing arts facility, means the cost of acquiring, constructing, renovating, rehabilitating, equipping, or improving the facility, or any combination of those purposes, collectively referred to in this section as "construction," and the cost of acquisition of all land, rights of way, property rights, easements, franchise rights, and interests required for those purposes, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which those buildings or structures may be moved, the cost of public utility and common carrier relocation or duplication, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to 2022
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and during construction and for not more than three years after 2035
completion of construction, costs arising under guaranty 2036
agreements, reimbursement agreements, or other credit 2037
enhancement agreements relating to bonds, engineering, expenses 2038
of research and development with respect to such facility, legal 2039
expenses, plans, specifications, surveys, studies, estimates of 2040
costs and revenues, other expenses necessary or incident to 2041
determining the feasibility or practicability of acquiring or 2042
constructing the facility, administrative expense, and other 2043
expenses as may be necessary or incident to that acquisition or 2044
construction and the financing of such acquisition or 2045
construction, including, with respect to the revenue bonds of a 2046
port authority, amounts to be paid into any special funds from 2047
the proceeds of those bonds, and repayments to the port 2048
authority, host county, host municipal corporation, or 2049
corporation of any amounts advanced for the foregoing purposes. 2050

(4) "Debt service charges" means, for any period or 2051
payable at any time, the principal of and interest and any 2052
premium due on bonds for that period or payable at that time 2053
whether due at maturity or upon mandatory redemption, together 2054
with any required deposits to reserves for the payment of 2055
principal of and interest on those bonds, and includes any 2056
payments required by the port authority to satisfy any of its 2057
obligations under or arising from any guaranty agreements, 2058
reimbursement agreements, or other credit enhancement agreements 2059
described in division (C) of this section. 2060

(5) "Host county" means the county within the boundaries 2061
of which the port authority educational and cultural performing 2062
arts facility is or will be located. 2063

(6) "Host municipal corporation" means the municipal 2064

corporation within the boundaries of which the port authority 2065
educational and cultural performing arts facility is or will be 2066
located. 2067

(7) "Port authority" means a port authority created 2068
pursuant to section 4582.22 of the Revised Code. 2069

(8) "Port authority educational and cultural performing 2070
arts facility" means a facility that consists of a center for 2071
music or other performing arts, a theater or other facilities to 2072
provide programs of an educational, recreational, or cultural 2073
nature, or any combination of those purposes as determined by 2074
the parties to the cooperative agreement for which provision is 2075
made in division (B) of this section to fulfill the public 2076
educational, recreational, and cultural purposes set forth 2077
therein, together with all parking facilities, walkways, and 2078
other auxiliary facilities, real and personal property, property 2079
rights, easements, and interests that may be appropriate for, or 2080
used in connection with, the operation of the facility. 2081

(B) A host county, a host municipal corporation, and a 2082
port authority may enter into a cooperative agreement with a 2083
corporation under which, as further provided for in that 2084
agreement: 2085

(1) The host county may agree to do any or all of the 2086
following: 2087

(a) Levy and collect a tax under ~~division (E)~~ divisions 2088
(O) and ~~division (F)~~ (P) of section 5739.09 of the Revised Code 2089
for the purposes, and in an amount sufficient for those 2090
purposes, described in divisions (B)(1)(b) and (c) of this 2091
section; 2092

(b) Pay to the port authority all or such portion as 2093

provided for in the cooperative agreement of the revenue from 2094
the tax, together with any investment earnings on that revenue, 2095
to be used to pay a portion of the costs of acquiring, 2096
constructing, renovating, rehabilitating, equipping, or 2097
improving the port authority educational and cultural performing 2098
arts facility; 2099

(c) Pledge and pay to the corporation all or such portion 2100
as provided for in the cooperative agreement of the revenue from 2101
the tax, together with any investment earnings on that revenue, 2102
to be used to pay a portion of the costs to the corporation of 2103
leasing the port authority educational and cultural performing 2104
arts facility from the port authority. 2105

(2) The port authority may agree to do any or all of the 2106
following: 2107

(a) Issue its revenue bonds pursuant to section 4582.48 of 2108
the Revised Code for the purpose of paying all or a portion of 2109
the costs of the port authority educational and cultural 2110
performing arts facility; 2111

(b) Acquire, construct, renovate, rehabilitate, equip, and 2112
improve the port authority educational and cultural performing 2113
arts facility; 2114

(c) Lease the port authority educational and cultural 2115
performing arts facility to the corporation; 2116

(d) To the extent provided for in the cooperative 2117
agreement or the lease to the corporation, authorize the 2118
corporation to administer on behalf of the port authority the 2119
contracts for acquiring, constructing, renovating, 2120
rehabilitating, or equipping the port authority educational and 2121
cultural performing arts facility; 2122

(e) Use the revenue derived from the lease of the port authority educational and cultural performing arts facility to the corporation solely to pay debt service charges on revenue bonds of the port authority issued pursuant to division (B) (2) (a) of this section and to pay its obligations under or arising from any guaranty agreements, reimbursement agreements, or other credit enhancement agreements provided for in this section.

(3) The host municipal corporation may agree to do either or both of the following:

(a) Issue its bonds for the purpose of paying all or a portion of the costs of the port authority educational and cultural performing arts facility, and pay the proceeds from the issuance to the port authority for that purpose;

(b) Enter into a guaranty agreement, a reimbursement agreement, or other credit enhancement agreement with the port authority to provide a guaranty or other credit enhancement of the port authority revenue bonds referred to in division (B) (2) (a) of this section pledging taxes, other than ad valorem property taxes, or other revenues for the purpose of providing the funds required to satisfy the host municipal corporation's obligations under that agreement.

The cooperative agreement may provide that the proceeds of such securities or of such guaranty agreement, reimbursement agreement, or other credit enhancement agreement be deposited with and administered by the trustee pursuant to the trust agreement authorized in division (C) of this section.

(4) The corporation may agree to do any or all of the following:

(a) Lease the port authority educational and cultural

performing arts facility from the port authority; 2152

(b) Operate and maintain the port authority educational 2153
and cultural performing arts facility pursuant to the lease; 2154

(c) To the extent provided for in the cooperative 2155
agreement or the lease from the port authority, administer on 2156
behalf of the port authority the contracts for acquiring, 2157
constructing, renovating, rehabilitating, or equipping the port 2158
authority educational and cultural performing arts facility. 2159

(C) The pledge and payments referred to in divisions (B) 2160
(1) (b) and (c) of this section and provided for in the 2161
cooperative agreement shall be for the period stated in the 2162
cooperative agreement but shall not extend longer than the 2163
period necessary to provide for the final retirement of the port 2164
authority revenue bonds referred to in division (B) (2) (a) of 2165
this section, and for the satisfaction by the port authority of 2166
any of its obligations under or arising from any guaranty 2167
agreements, reimbursement agreements, or other credit 2168
enhancement agreements relating to those bonds or to the 2169
revenues pledged to them. The cooperative agreement shall 2170
provide for the termination of the cooperative agreement, 2171
including the pledge and payment referred to in division (B) (1) 2172
(c) of this section, if the port authority revenue bonds 2173
referred to in division (B) (2) (a) of this section have not been 2174
issued, sold, and delivered within five years of the effective 2175
date of the cooperative agreement. 2176

The cooperative agreement shall provide that any port 2177
authority revenue bonds shall be secured by a trust agreement 2178
between the port authority and a corporate trustee that is a 2179
trust company or bank having the powers of a trust company 2180
within or outside the state but authorized to exercise trust 2181

powers within the state. The host county may be a party to that trust agreement for the purpose of better securing the pledge by the host county of its payment to the corporation pursuant to division (B) (1) (c) of this section. A tax levied pursuant to section 5739.09 of the Revised Code for the purposes specified in division (B) (1) (b) or (c) of this section is not subject to diminution by initiative or referendum or diminution by statute, unless provision is made for an adequate substitute reasonably satisfactory to the trustee under the trust agreement that secures the port authority revenue bonds.

(D) A pledge of money by a host county under this section shall not be net indebtedness of the host county for purposes of section 133.07 of the Revised Code. A guaranty or other credit enhancement by a host municipal corporation under this section shall not be net indebtedness of the host municipal corporation for purposes of section 133.05 of the Revised Code.

(E) If the terms of the cooperative agreement so provide, any contract for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility shall be made in such manner as is determined by the board of directors of the port authority, and unless the cooperative agreement provides otherwise, such a contract is not subject to division ~~(R) (2) (A)~~ (18) (b) of section 4582.31 of the Revised Code. The port authority may take the assignment of and assume any contracts for the acquisition, construction, renovation, rehabilitation, equipping, or improving of a port authority educational and cultural performing arts facility that had previously been authorized by any of the host county, the host municipality, or the corporation. Such contracts are not subject to division ~~(R) (2) (A)~~ (18) (b) of section 4582.31 of the Revised Code.

Any contract for the acquisition, construction, 2213
renovation, rehabilitation, equipping, or improving of a port 2214
authority educational and cultural performing arts facility 2215
entered into, assigned, or assumed pursuant to this division 2216
shall provide that all laborers and mechanics employed for the 2217
acquisition, construction, renovation, rehabilitation, 2218
equipping, or improving of that facility shall be paid at the 2219
prevailing rates of wages of laborers and mechanics for the 2220
class of work called for by the port authority educational and 2221
cultural performing arts facility, which wages shall be 2222
determined in accordance with the requirements of Chapter 4115. 2223
of the Revised Code for the determination of prevailing wage 2224
rates. 2225

Notwithstanding any provisions to the contrary in section 2226
123.281 of the Revised Code, construction services and general 2227
building services for a port authority educational and cultural 2228
performing arts facility funded completely or in part with money 2229
appropriated by the state to the Ohio facilities construction 2230
commission may be provided by a port authority or a corporation 2231
that occupies, will occupy, or is responsible for that facility, 2232
as determined by the commission. The construction services and 2233
general building services to be provided by the port authority 2234
or the corporation shall be specified in an agreement between 2235
the commission and the port authority or corporation. That 2236
agreement, or any actions taken under it, are not subject to 2237
Chapters 123. or 153. of the Revised Code, but are subject to 2238
Chapter 4115. of the Revised Code. 2239

Sec. 307.678. (A) As used in this section: 2240

(1) "Bureau" means a nonprofit corporation that is 2241
organized under the laws of this state that is, or has among its 2242

functions acting as, a convention and visitors' bureau, and that 2243
currently receives revenue from existing lodging taxes. 2244

(2) "Cooperating parties" means the parties to a 2245
cooperative agreement. 2246

(3) "Cooperative agreement" means an agreement entered 2247
into pursuant to or as contemplated by this section. 2248

(4) "Credit enhancement facilities" has the same meaning 2249
as in section 133.01 of the Revised Code. 2250

(5) "Debt charges" has the same meaning as in section 2251
133.01 of the Revised Code, except that "obligations" shall be 2252
substituted for "securities" wherever "securities" appears in 2253
that section. 2254

(6) "Eligible county" means a county within the boundaries 2255
of which any part of a tourism development district is located. 2256

(7) "Eligible transit authority" means a regional transit 2257
authority created pursuant to section 306.31 of the Revised Code 2258
or a county in which a county transit system is created pursuant 2259
to section 306.01 of the Revised Code, within the boundaries of 2260
which any part of a tourism development district is located. 2261

(8) "Existing lodging taxes" means taxes levied by a board 2262
of county commissioners of an eligible county under ~~division~~ 2263
divisions (A) to (L) of section 5739.09 of the Revised Code. 2264

(9) "Financing costs" means all costs, fees, and expenses 2265
relating to the authorization, including any required election, 2266
issuance, sale, delivery, authentication, deposit, custody, 2267
clearing, registration, transfer, exchange, fractionalization, 2268
replacement, payment, and servicing, of obligations, including, 2269
without limitation, costs and expenses for or relating to 2270

publication and printing, postage, delivery, preliminary and 2271
final official statements, offering circulars, placement 2272
memoranda, and informational statements, travel and 2273
transportation, underwriters, placement agents, investment 2274
bankers, paying agents, registrars, authenticating agents, 2275
remarketing agents, custodians, clearing agencies, companies, or 2276
corporations, securities depositories, issuers, financial 2277
advisory services, certifications, audits, federal or state 2278
regulatory agencies, accounting and computation services, legal 2279
services and obtaining approving legal opinions and other legal 2280
opinions, credit ratings, paying redemption premiums, and credit 2281
enhancement facilities. Financing costs may be paid from any 2282
money available for the purpose, including, unless otherwise 2283
provided in the proceedings, from the proceeds of the 2284
obligations to which they relate and, as to future financing 2285
costs, from the same sources from which debt charges on the 2286
obligations are paid and as though debt charges. 2287

(10) "Host municipal corporation" means a municipal 2288
corporation within the boundaries of which any part of a tourism 2289
development district is located. 2290

(11) "Host school district" means a school district within 2291
the boundaries of which any part of a tourism development 2292
district is located. 2293

(12) "Incremental sales tax growth" has the same meaning 2294
as in section 5739.213 of the Revised Code, except that, in the 2295
case of an eligible county, "incremental sales tax growth" shall 2296
include only the amount of taxes levied under sections 5739.021 2297
and 5739.026 of the Revised Code credited to the county's 2298
general fund. 2299

(13) "Issuer" means a port authority, a new community 2300

authority, or any other issuer, as defined in section 133.01 of 2301
the Revised Code, and any corporation. 2302

(14) "Maintenance and repair costs" means costs and 2303
expenses incurred by a cooperating party from the party's own 2304
revenues for maintaining or repairing a project. 2305

(15) "Net lodging tax proceeds" means the proceeds of an 2306
existing lodging tax that remain after deduction by an eligible 2307
county of the real and actual costs of administering the tax and 2308
any portion of such proceeds required to be returned to a 2309
municipal corporation or township under division (A) ~~(1)~~ of 2310
section 5739.09 of the Revised Code. 2311

(16) "Net tourism development district revenues" means the 2312
tourism development district revenues remaining after deduction 2313
by the host municipal corporation of an amount, not to exceed 2314
one per cent of any admissions tax revenues, prescribed in any 2315
legislation by which, or agreement pursuant to which, tourism 2316
development district revenues are pledged, or agreed to be 2317
pledged or contributed, by an eligible county, an eligible 2318
transit authority, or a host municipal corporation, or any 2319
combination thereof, in accordance with division (B), (E), (F), 2320
or (G) of this section. 2321

(17) "New community authority" means a new community 2322
authority established under section 349.03 of the Revised Code 2323
by an organizational board of commissioners that is or includes 2324
the board of county commissioners of an eligible county or the 2325
legislative authority of a host municipal corporation. 2326

(18) "Obligations" means obligations issued or incurred by 2327
an issuer pursuant to Chapter 133., 349., or 4582. of the 2328
Revised Code, or otherwise, for the purpose of funding or 2329

paying, or reimbursing persons for the funding or payment of, 2330
project costs, and that evidence the issuer's obligation to 2331
repay borrowed money, including interest thereon, or to pay 2332
other money obligations of the issuer at any future time, 2333
including, without limitation, bonds, notes, anticipatory 2334
securities as defined in section 133.01 of the Revised Code, 2335
certificates of indebtedness, commercial paper, or installment 2336
sale, lease, lease-purchase, or similar agreements. 2337
"Obligations" does not include credit enhancement facilities. 2338

(19) "Person" includes an individual, corporation, limited 2339
liability company, business trust, estate, trust, partnership, 2340
association, eligible county, eligible transit authority, host 2341
municipal corporation, port authority, new community authority, 2342
and any other political subdivision of the state. 2343

(20) "Port authority" means a port authority created under 2344
Chapter 4582. of the Revised Code. 2345

(21) "Project" means acquiring, constructing, 2346
reconstructing, rehabilitating, remodeling, renovating, 2347
enlarging, equipping, furnishing, or otherwise improving a 2348
tourism facility or any component or element thereof. 2349

(22) "Project cost" means the cost of acquiring, 2350
constructing, reconstructing, rehabilitating, remodeling, 2351
renovating, enlarging, equipping, financing, refinancing, 2352
furnishing, or otherwise improving a project, including, without 2353
limitation, financing costs; the cost of architectural, 2354
engineering, and other professional services, designs, plans, 2355
specifications, surveys, and estimates of costs; financing or 2356
refinancing obligations issued by, or reimbursing money advanced 2357
by, any cooperating party or any other person, where the 2358
proceeds of the obligations or money advanced was used to pay 2359

any other cost described in this division; inspections and 2360
testing; any indemnity or surety bond or premium related to 2361
insurance pertaining to development of the project; all related 2362
direct and indirect administrative costs and costs of placing a 2363
project in service; fees and expenses of trustees, escrow 2364
agents, depositories, and paying agents for any obligations; 2365
interest on obligations during the planning, design, and 2366
development of a project and for up to eighteen months 2367
thereafter; funding and replenishing reserves for the payment of 2368
debt charges on any obligations; all other expenses necessary or 2369
incident to planning, or determining the feasibility or 2370
practicability of, a project, including, without limitation, 2371
advocating the enactment of legislation to facilitate the 2372
development and financing of a project; and any other costs of a 2373
project that are authorized to be financed by the issuer of 2374
obligations at the time the obligations are issued. 2375

(23) "Taxing authority" means the board of county 2376
commissioners of an eligible county, the legislative authority, 2377
as that term is defined in section 5739.01 of the Revised Code, 2378
of an eligible transit authority, or the legislative authority 2379
of a host municipal corporation. 2380

(24) "Tourism development district" means an area 2381
designated by a host municipal corporation under section 715.014 2382
of the Revised Code. 2383

(25) "Tourism development district revenues" means money 2384
received or receivable by a host municipal corporation from 2385
incremental sales tax growth pursuant to section 5739.213 of the 2386
Revised Code, from a tax levied by the host municipal 2387
corporation pursuant to division (C) of section 5739.101 of the 2388
Revised Code, from a tax levied by the host municipal 2389

corporation pursuant to section 5739.08 or 5739.09 of the Revised Code on the provision of lodging by hotels located in the tourism development district, from a tax levied by the host municipal corporation with respect to admission to any tourism facility or parking or any other activity occurring at any location in the tourism development district, or from any tax levied by an eligible county, eligible transit authority, or host municipal corporation, except for a tax on property levied by an eligible county, with respect to activities occurring, or property located, in the tourism development district, if and to the extent that revenue from any such tax is authorized to be used, or is not prohibited by law from being used, to foster and develop tourism in the tourism development district and is authorized, contracted, pledged or assigned by the respective taxing authority to be used to fund or pay, or to reimburse other persons for funding or payment of, project costs or maintenance and repair costs.

(26) "Tourism facility" means any permanent improvement, as defined in section 133.01 of the Revised Code, located in a tourism development district.

(B) The board of county commissioners of an eligible county, an eligible transit authority, a host municipal corporation, the board of education of a host school district, a port authority, a bureau, a new community authority, and any other person, or any combination thereof, may enter into a cooperative agreement for any purpose authorized under this section and under which any of the following apply:

(1) The board of county commissioners of the eligible county and the bureau agree to make available to a cooperating party or any other person net lodging tax proceeds, not to

exceed five hundred thousand dollars each year, to fund or pay, 2420
or to reimburse other persons for funding or payment of, project 2421
costs or debt charges on obligations. 2422

(2) The board of county commissioners of the eligible 2423
county agrees, for the purpose of funding or paying or 2424
supporting, or for reimbursing other persons for funding or 2425
payment of, project costs, including debt charges on 2426
obligations, may do either of the following: 2427

(a) Make available to a cooperating party or other person 2428
an amount equal to incremental sales tax growth or all or a 2429
portion of the county's tourism development district revenues; 2430

(b) Provide, from receipts of a tax levied by the county 2431
under division ~~(A) (11)~~ (K) of section 5739.09 of the Revised 2432
Code, credit enhancement facilities in connection with the 2433
funding or payment of project costs, including debt charges on 2434
obligations, or any portion or combination thereof. 2435

(3) The taxing authority of an eligible transit authority 2436
agrees to make available to a cooperating party or any other 2437
person an amount equal to incremental sales tax growth or all or 2438
a portion of the transit authority's tourism development 2439
district revenues. 2440

(4) The host municipal corporation agrees to make 2441
available credit enhancement facilities or net tourism 2442
development district revenues, or any portion or combination 2443
thereof, to fund, pay, or support, or to reimburse other persons 2444
for funding or payment of, project costs, including debt charges 2445
on obligations, or maintenance and repair costs, or both. Any 2446
agreement to use net tourism development district revenues to 2447
pay or reimburse other persons for payment of maintenance and 2448

repair costs shall be subject to authorization by any 2449
cooperating party providing such funding to the host municipal 2450
corporation and to annual appropriation for such purpose by the 2451
legislative authority of the host municipal corporation and 2452
shall be subordinate to any covenant made to or by an issuer in 2453
connection with the issuance of obligations or credit 2454
enhancement facilities to pay project costs. 2455

(5) The cooperating parties agree, subject to any 2456
conditions or limitations provided in the cooperative agreement, 2457
to any of the following: 2458

(a) The conveyance, grant, or transfer to a cooperating 2459
party or any other person of ownership of, property interests 2460
in, and rights to use real or personal property to create a 2461
tourism facility or with respect to a tourism facility as the 2462
facility exists at the time of the agreement or as it may be 2463
improved by a project; 2464

(b) The respective responsibilities of each cooperating 2465
party for the management, operation, maintenance, repair, and 2466
replacement of a tourism facility, including any project 2467
undertaken with respect to the facility, which may include 2468
authorization for a cooperating party to contract with any other 2469
person for any such purpose; 2470

(c) The respective responsibilities of each cooperating 2471
party for the development and financing of a project, including, 2472
without limitation, the cooperating party or parties that shall 2473
be responsible for contracting for the development of a project 2474
and administering contracts entered into by the party or parties 2475
for that purpose; 2476

(d) The respective responsibilities of each cooperating 2477

party to provide money, credit enhancement facilities, or both, 2478
whether by issuing obligations or otherwise, for the funding, 2479
payment, financing, or refinancing, or reimbursement to a 2480
cooperating party or other person for the funding, payment, 2481
financing, or refinancing, of project costs; 2482

(e) The respective responsibilities of each cooperating 2483
party to provide money, credit enhancement facilities, or other 2484
security for the payment of debt charges on obligations or to 2485
fund or replenish reserves or otherwise provide for the payment 2486
of maintenance and repair costs. 2487

(C) Any conveyance, grant, or transfer of ownership of, 2488
property interests in, or rights to use a tourism development 2489
facility or project, including any project undertaken with 2490
respect to an existing tourism facility, that is contemplated by 2491
a cooperative agreement may be made or entered into by a 2492
cooperating party, in such manner and upon such terms as the 2493
cooperating parties may agree, without regard to ownership of 2494
the tourism facility or project, notwithstanding any other 2495
provision of law that may otherwise apply, including, without 2496
limitation, any requirement for notice, competitive bidding or 2497
selection, or the provision of security. 2498

(D) The board of county commissioners may amend any 2499
previously adopted resolution providing for the levy of an 2500
existing lodging tax to permit the use of any portion of the net 2501
lodging tax proceeds from such tax as provided in this section 2502
if and to the extent such use is not inconsistent with a 2503
cooperative agreement. A host municipal corporation may amend 2504
any previously passed ordinance providing for the levy of 2505
lodging taxes under section 5739.08 or 5739.09 of the Revised 2506
Code to permit the use of any portion of such lodging taxes as 2507

provided in this section. 2508

(E) (1) Notwithstanding any other provision of law: 2509

(a) The board of county commissioners of an eligible 2510
county may provide, from receipts of a tax levied by the county 2511
under division ~~(A) (11)~~ (K) of section 5739.09 of the Revised 2512
Code, credit enhancement facilities in connection with any 2513
project, including, without limitation, for the provision of any 2514
infrastructure necessary to support a tourism facility. 2515

(b) The board of county commissioners of an eligible 2516
county and a bureau may agree to make available to any person, 2517
on such terms and conditions as the board and the bureau may 2518
determine and agree, net lodging tax proceeds. 2519

(c) The board of county commissioners of an eligible 2520
county may agree to make available to any person, on such terms 2521
and conditions as the board may determine and agree, incremental 2522
sales tax growth and all or a portion of the county's tourism 2523
development district revenues. 2524

(2) Any amount made available under division (E) (1) (b) or 2525
(c) of this section shall be used to fund or pay, or to 2526
reimburse other persons for funding or payment of, project 2527
costs, including, without limitation, the payment of debt 2528
charges on obligations, the provision of credit enhancement 2529
facilities and the funding, and funding and replenishing 2530
reserves for that purpose or, subject to annual appropriation, 2531
to pay, or reimburse other persons for payment of, repair and 2532
maintenance costs. 2533

(3) The board of county commissioners, the bureau, or 2534
both, may pledge net lodging tax proceeds, and the board of 2535
county commissioners may pledge incremental sales tax growth and 2536

any tourism development district revenues, or any part or 2537
portion or combination thereof, to the payment of debt charges 2538
on obligations and the funding, or to fund or replenish reserves 2539
for that purpose; provided that, the total amount of net lodging 2540
tax proceeds made available for such use each year shall not 2541
exceed five hundred thousand dollars. 2542

The lien of any such pledge shall be effective against all 2543
persons when it is made, without the requirement for the filing 2544
of any notice, and any such net lodging tax proceeds, 2545
incremental sales tax growth, and tourism development district 2546
revenues, or any part or portion or combination thereof, so 2547
pledged and required to pay debt charges on obligations, to 2548
provide any credit enhancement facilities or to fund, or to fund 2549
or replenish reserves, or any combination thereof, shall be paid 2550
by the county or bureau at the times, in the amounts, and to 2551
such payee, including, without limitation, a corporate trustee 2552
or paying agent, to which the board of county commissioners and 2553
bureau agree with respect to net lodging tax proceeds and to 2554
which the board of county commissioners agree with respect to 2555
incremental sales tax growth or tourism development district 2556
revenues. 2557

(F) Notwithstanding any other provision of law, a host 2558
municipal corporation may agree to make available to any person, 2559
on such terms and conditions to which it may determine and 2560
agree, and any person may use, net tourism development district 2561
revenues, or any part or portion thereof, to fund or pay, or to 2562
reimburse other persons for funding or payment of, project 2563
costs, including, without limitation, the payment of debt 2564
charges on obligations and the funding, and funding and 2565
replenishing reserves for that purpose, or, subject to annual 2566
appropriation, to pay, or to reimburse other persons for payment 2567

of maintenance and repair costs, and the host municipal 2568
corporation may pledge net tourism development district 2569
revenues, or any part or portion thereof, to the payment of debt 2570
charges on obligations and to fund and replenish reserves for 2571
that purpose and may provide credit enhancement facilities. The 2572
lien of any such pledge shall be effective against all persons 2573
when it is made, without the requirement for the filing of any 2574
notice, and any net tourism development district revenues so 2575
pledged and required to pay debt charges on obligations or to 2576
fund and replenish reserves shall be paid by the host municipal 2577
corporation at the times, in the amounts, and to such payee, 2578
including, without limitation, a corporate trustee or paying 2579
agent, to which the host municipal corporation agrees. 2580

(G) Notwithstanding any other provision of law, an 2581
eligible transit authority may agree to make available, on such 2582
terms and conditions to which it may determine and agree, to any 2583
person, and any person may use, incremental sales tax growth and 2584
tourism development district revenues, or any part or portion or 2585
combination thereof, to fund or pay, or to reimburse other 2586
persons for funding or payment of, project costs, including, 2587
without limitation, the payment of debt charges on obligations 2588
and the funding and replenishing of reserves for that purpose, 2589
or, subject to annual appropriation, to pay, or to reimburse any 2590
other person for payment of, maintenance and repair costs, and 2591
the eligible transit authority may pledge incremental sales tax 2592
growth and tourism development district revenues, or any part or 2593
portion or combination thereof, to the payment of debt charges 2594
on obligations and the funding and replenishing of reserves for 2595
that purpose. The lien of any such pledge shall be effective 2596
against all persons when it is made, without the requirement for 2597
the filing of any notice, and any incremental sales tax growth 2598

and tourism development district revenues, or any part or 2599
portion or combination thereof, so pledged and required to pay 2600
debt charges on obligations or to fund and replenish reserves 2601
shall be paid by the eligible transit authority at the times, in 2602
the amounts, and to such payee, including, without limitation, a 2603
corporate trustee or paying agent, to which the eligible transit 2604
authority agrees. 2605

(H) Except as provided herein with respect to agreements 2606
for the payment or reimbursement of maintenance and repair 2607
costs, if the term of an agreement made pursuant to division 2608
(B), (E), (F), or (G) of this section extends beyond the end of 2609
the fiscal year of the eligible county, eligible transit 2610
authority, or host municipal corporation in which it is made, 2611
the agreement shall be subject to section 5705.44 of the Revised 2612
Code, and subject to the certification required by that section, 2613
the amount due under any such agreement in each succeeding 2614
fiscal year shall be included in the annual appropriation 2615
measure of the eligible county, eligible transit authority, or 2616
host municipal corporation for each such fiscal year as a fixed 2617
charge. The obligation of an eligible county, eligible transit 2618
authority, or host municipal corporation, and of each official 2619
thereof, to include the amount required to be paid in any such 2620
fiscal year in its annual appropriation measure as a fixed 2621
charge and to make such payments from and to the extent of the 2622
amounts so pledged, or agreed to be contributed or pledged, 2623
shall be a duty specially enjoined by law and resulting from an 2624
office, trust, or station under section 2731.01 of the Revised 2625
Code, enforceable by writ of mandamus. 2626

(I) (1) Each tourism facility and project constitutes a 2627
"port authority facility" within the meaning of division (D) of 2628
section 4582.01 and division (E) of section 4582.21 of the 2629

Revised Code, and a port authority may issue obligations under 2630
Chapter 4582. of the Revised Code, subject only to the 2631
procedures and requirements applicable to its issuance of 2632
revenue bonds as provided in division (A) (4) of section 4582.06 2633
of the Revised Code or of port authority revenue bonds as 2634
provided in division (A) (8) of section 4582.31 of the Revised 2635
Code. For the purpose of issuing any such obligations, any net 2636
lodging tax proceeds, net tourism development district revenues, 2637
amounts provided pursuant to any credit enhancement facilities, 2638
and revenue from any other tax pledged, assigned, or otherwise 2639
obligated to be contributed to the payment of the obligations 2640
shall be treated as revenues of the port authority for the 2641
purposes of division (A) (4) of section 4582.06 of the Revised 2642
Code and revenues, as defined in section 4582.21 of the Revised 2643
Code. Any obligations issued under division (I) (1) of this 2644
section shall be considered revenue bonds issued under division 2645
(A) (4) of section 4582.06 of the Revised Code or port authority 2646
revenue bonds issued under division (A) (8) of section 4582.31 2647
and section 4582.48 of the Revised Code for all purposes. In 2648
addition to all other powers available to a port authority under 2649
this section or under Chapter 4582. of the Revised Code with 2650
respect to the issuance of or provision for the security for 2651
payment of debt charges on obligations, and with respect to any 2652
tourism facility or project, the port authority may take any of 2653
the actions contemplated by Chapter 4582. of the Revised Code, 2654
including, without limitation, any actions contemplated by 2655
section 4582.06, 4582.31, or 4582.47 of the Revised Code. 2656
Obligations issued by a port authority pursuant to division (I) 2657
(1) of this section shall be special obligations of the port 2658
authority and do not constitute bonded indebtedness, a general 2659
obligation, debt, or a pledge of the full faith and credit of 2660
the state, the port authority, or any other political 2661

subdivision of the state. 2662

(2) Each tourism facility and project constitutes 2663
"community facilities" within the meaning of division (I) of 2664
section 349.01 of the Revised Code, and a new community 2665
authority may issue obligations pursuant to Chapter 349. of the 2666
Revised Code subject only to the procedures and requirements 2667
applicable to its issuance of bonds or notes as used in and 2668
pursuant to section 349.08 of the Revised Code. For the purpose 2669
of issuing any such obligations, net lodging tax proceeds, net 2670
tourism development district revenues, and revenue from any 2671
other tax pledged, assigned, or otherwise obligated to be 2672
contributed to the payment of the obligations shall be treated 2673
as an income source, as defined in section 349.01 of the Revised 2674
Code. Any obligations issued under division (I)(2) of this 2675
section shall be considered bonds issued under section 349.08 of 2676
the Revised Code. In addition to all other powers available to a 2677
new community authority under division (I)(2) of this section or 2678
under Chapter 349. of the Revised Code with respect to the 2679
issuance of or provision for the security for payment of debt 2680
charges on obligations, and with respect to any tourism facility 2681
or project, the new community authority may take any of the 2682
actions contemplated by Chapter 349. of the Revised Code. 2683
Obligations issued by a new community authority pursuant to 2684
division (I)(2) of this section shall be special obligations of 2685
the new community authority and do not constitute bonded 2686
indebtedness, a general obligation, debt, or a pledge of the 2687
full faith and credit of the state, the new community authority, 2688
or any other political subdivision of the state. 2689

(J) Each project for which funding or payment of project 2690
costs is provided, in whole or in part, by the issuance of 2691
obligations secured by a pledge of net lodging tax proceeds or 2692

net tourism development district revenues, or both, and any 2693
agreement to provide credit enhancement facilities or to fund or 2694
pay, and the funding or payment of, such project costs and any 2695
maintenance and repair costs of the project from net lodging 2696
taxes and net tourism development district revenues, are hereby 2697
determined, regardless of the ownership, leasing, or use of the 2698
project by any person, to constitute implementing and 2699
participating in the development of sites and facilities within 2700
the meaning of Section 2p of Article VIII, Ohio Constitution, 2701
including division (D) (3) of that section, and any such 2702
obligations are hereby determined to be issued, and any such 2703
credit enhancement facilities and agreements to fund or pay, and 2704
funding and payment of, project costs and any maintenance and 2705
repair costs of the project, are determined to be made, under 2706
authority of Section 2p of Article VIII, Ohio Constitution, for 2707
and in furtherance of site and facility development purposes 2708
within the meaning of division (E) of that section, pursuant to 2709
provision made by law for the procedure for incurring and 2710
issuing obligations, separately or in combination with other 2711
obligations, and refunding, retiring, and evidencing 2712
obligations, and pursuant to division (F) of Section 2p of 2713
Article VIII, Ohio Constitution, such that provision for the 2714
payment of debt charges on the obligations, credit enhancement 2715
facilities, or both, the purposes and uses to which and the 2716
manner in which the proceeds of those obligations or credit 2717
enhancement facilities or money from other sources are to be or 2718
may be applied, and other implementation of those development 2719
purposes as referred to in this section, including the manner 2720
determined by an issuer to participate for those purposes, are 2721
not subject to Sections 4 and 6 of Article VIII, Ohio 2722
Constitution. 2723

No obligations may be issued under this section to fund or pay maintenance and repair costs. 2724
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(K) No obligations may be issued under this section unless the issuer's fiscal officer determines that the net lodging tax proceeds, net tourism development district revenues, or both, pledged, assigned, or otherwise obligated to be contributed to the payment of debt charges on such obligations and all other obligations issued, outstanding and payable therefrom, are expected to be sufficient to pay all debt charges on all such obligations except to any extent that such debt charges are to be paid from proceeds of obligations or refunding obligations deposited or to be deposited into a pledged fund or account, including any reserve fund or account, or investment earnings thereon. 2726
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(L) (1) A board of county commissioners shall not repeal, rescind, or reduce the levy of an existing lodging tax or the source of any other revenue to the extent revenue from that tax or source is pledged to the payment of debt charges on obligations, and any such lodging tax or other revenue source shall not be subject to repeal, rescission, or reduction by initiative, referendum, or subsequent enactment of legislation by the general assembly, so long as there remain outstanding any obligations as to which the payment of debt charges is secured by a pledge of the existing lodging tax or other revenue source. 2738
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(2) The legislative authority of a host municipal corporation shall not repeal, rescind, or reduce the levy of any tax the proceeds of which constitute tourism development district revenues if its proceeds are pledged to the payment of debt charges on obligations, and any such tax shall not be subject to repeal, rescission, or reduction by initiative, 2748
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referendum, or subsequent enactment of legislation by the 2754
general assembly, so long as there remain outstanding any 2755
obligations as to which the payment of debt charges is secured 2756
by a pledge of those net tourism development district revenues. 2757

(3) A transit authority shall not repeal, rescind, or 2758
reduce the levy of any tax the proceeds of which are pledged to 2759
the payment of debt charges on obligations, and any such tax 2760
shall not be subject to repeal, rescission, or reduction by 2761
initiative, referendum, or subsequent enactment of legislation 2762
by the general assembly, so long as there remain outstanding any 2763
obligations as to which the payment of debt charges is secured 2764
by the pledge of such tax proceeds. 2765

(M) A pledge, assignment, or other agreement to contribute 2766
net lodging tax proceeds or other revenues or credit enhancement 2767
facilities made by an eligible county under division (B) or (E) 2768
of this section; a pledge, assignment, or other agreement to 2769
contribute net tourism development district revenues or credit 2770
enhancement facilities made by a host municipality under 2771
division (B) or (F) of this section; and a pledge, assignment, 2772
or other agreement made by an eligible county or eligible 2773
transit authority or agreement to contribute revenue from taxes 2774
that constitute tourism development district revenues under 2775
division (B), (E), or (G) of this section, do not constitute 2776
bonded indebtedness, or indebtedness for the purposes of Chapter 2777
133. of the Revised Code, of an eligible county, eligible 2778
transit authority, or host municipal corporation. 2779

(N) The authority provided by this section is supplemental 2780
to, and is not intended to limit in any way, any legal authority 2781
that a cooperating party or any other person may have under any 2782
other provision of law. 2783

Sec. 307.695. (A) As used in this section:	2784
(1) "Arena" means any structure designed and constructed for the purpose of providing a venue for public entertainment and recreation by the presentation of concerts, sporting and athletic events, and other events and exhibitions, including facilities intended to house or provide a site for one or more athletic or sports teams or activities, spectator facilities, parking facilities, walkways, and auxiliary facilities, real and personal property, property rights, easements, leasehold estates, and interests that may be appropriate for, or used in connection with, the operation of the arena.	2785 2786 2787 2788 2789 2790 2791 2792 2793 2794
(2) "Convention center" means any structure expressly designed and constructed for the purposes of presenting conventions, public meetings, and exhibitions and includes parking facilities that serve the center and any personal property used in connection with any such structure or facilities.	2795 2796 2797 2798 2799 2800
(3) "Eligible county" means a county having a population of at least four hundred thousand but not more than eight hundred thousand according to the 2000 federal decennial census and that directly borders the geographic boundaries of another state.	2801 2802 2803 2804 2805
(4) "Entity" means a nonprofit corporation, a municipal corporation, a port authority created under Chapter 4582. of the Revised Code, or a convention facilities authority created under Chapter 351. of the Revised Code.	2806 2807 2808 2809
(5) "Lodging taxes" means excise taxes levied under division (A) (1) , (A)(2)(B) , or (C)(M) of section 5739.09 of the Revised Code and the revenues arising therefrom.	2810 2811 2812

(6) "Nonprofit corporation" means a nonprofit corporation 2813
that is organized under the laws of this state and that includes 2814
within the purposes for which it is incorporated the 2815
authorization to lease and operate facilities such as a 2816
convention center or an arena or a combination of an arena and 2817
convention center. 2818

(7) "Project" means acquiring, constructing, 2819
reconstructing, renovating, rehabilitating, expanding, adding 2820
to, equipping, furnishing or otherwise improving an arena, a 2821
convention center, or a combination of an arena and convention 2822
center. For purposes of this section, a project is a permanent 2823
improvement for one purpose under Chapter 133. of the Revised 2824
Code. 2825

(8) "Project revenues" means money received by a county 2826
with a population greater than four hundred thousand wherein the 2827
population of the largest city comprises more than one-third of 2828
that county's population, other than money from taxes or from 2829
the proceeds of securities secured by taxes, in connection with, 2830
derived from, related to, or resulting from a project, 2831
including, but not limited to, rentals and other payments 2832
received under a lease or agreement with respect to the project, 2833
ticket charges or surcharges for admission to events at a 2834
project, charges or surcharges for parking for events at a 2835
project, charges for the use of a project or any portion of a 2836
project, including suites and seating rights, the sale of naming 2837
rights for the project or a portion of the project, unexpended 2838
proceeds of any county revenue bonds issued for the project, and 2839
any income and profit from the investment of the proceeds of any 2840
such revenue bonds or any project revenues. 2841

(9) "Chapter 133. securities," "debt charges," "general 2842

obligation," "legislation," "one purpose," "outstanding," 2843
"permanent improvement," "person," and "securities" have the 2844
meanings given to those terms in section 133.01 of the Revised 2845
Code. 2846

(B) A board of county commissioners may enter into an 2847
agreement with a convention and visitors' bureau operating in 2848
the county under which: 2849

(1) The bureau agrees to construct and equip a convention 2850
center in the county and to pledge and contribute from the tax 2851
revenues received by it under division (A) of section 5739.09 of 2852
the Revised Code, not more than such portion thereof that it is 2853
authorized to pledge and contribute for the purpose described in 2854
division (C) of this section; and 2855

(2) The board agrees to levy a tax under division ~~(C)~~(M) 2856
of section 5739.09 of the Revised Code and pledge and contribute 2857
the revenues therefrom for the purpose described in division (C) 2858
of this section. 2859

(C) The purpose of the pledges and contributions described 2860
in divisions (B)(1) and (2) of this section is payment of 2861
principal, interest, and premium, if any, on bonds and notes 2862
issued by or for the benefit of the bureau to finance the 2863
construction and equipping of a convention center. The pledges 2864
and contributions provided for in the agreement shall be for the 2865
period stated in the agreement. Revenues determined from time to 2866
time by the board to be needed to cover the real and actual 2867
costs of administering the tax imposed ~~by~~under division ~~(C)~~(M) 2868
of section 5739.09 of the Revised Code may not be pledged or 2869
contributed. The agreement shall provide that any such bonds and 2870
notes shall be secured by a trust agreement between the bureau 2871
or other issuer acting for the benefit of the bureau and a 2872

corporate trustee that is a trust company or bank having the 2873
powers of a trust company within or without the state, and the 2874
trust agreement shall pledge or assign to the retirement of the 2875
bonds or notes, all moneys paid by the county under this 2876
section. A tax the revenues from which are pledged under an 2877
agreement entered into by a board of county commissioners under 2878
this section shall not be subject to diminution by initiative or 2879
referendum, or diminution by statute, unless provision is made 2880
therein for an adequate substitute therefor reasonably 2881
satisfactory to the trustee under the trust agreement that 2882
secures the bonds and notes. 2883

(D) A pledge of money by a county under division (B) of 2884
this section shall not be indebtedness of the county for 2885
purposes of Chapter 133. of the Revised Code. 2886

(E) If the terms of the agreement so provide, the board of 2887
county commissioners may acquire and lease real property to the 2888
convention bureau as the site of the convention center. The 2889
lease shall be on such terms as are set forth in the agreement. 2890
The purchase and lease are not subject to the limitations of 2891
sections 307.02 and 307.09 of the Revised Code. 2892

(F) In addition to the authority granted to a board of 2893
county commissioners under divisions (B) to (E) of this section, 2894
a board of county commissioners in a county with a population of 2895
one million two hundred thousand or more, or a county with a 2896
population greater than four hundred thousand wherein the 2897
population of the largest city comprises more than one-third of 2898
that county's population, may purchase, for cash or by 2899
installment payments, enter into lease-purchase agreements for, 2900
lease with an option to purchase, lease, construct, enlarge, 2901
improve, rebuild, equip, or furnish a convention center. 2902

(G) The board of county commissioners of a county with a population greater than four hundred thousand wherein the population of the largest city comprises more than one-third of that county's population may undertake, finance, operate, and maintain a project. The board may lease a project to an entity on terms that the board determines to be in the best interest of the county and in furtherance of the public purpose of the project; the lease may be for a term of thirty-five years or less and may provide for an option of the entity to renew the lease for a term of thirty-five years or less. The board may enter into an agreement with an entity with respect to a project on terms that the board determines to be in the best interest of the county and in furtherance of the public purpose of the project. To the extent provided for in an agreement or a lease with an entity, the board may authorize the entity to administer on behalf of the board any contracts for the project. The board may enter into an agreement providing for the sale to a person of naming rights to a project or portion of a project, for a period, for consideration, and on other terms and conditions that the board determines to be in the best interest of the county and in furtherance of the public purpose of the project. The board may enter into an agreement with a person owning or operating a professional athletic or sports team providing for the use by that person of a project or portion of a project for that team's offices, training, practices, and home games for a period, for consideration, and on other terms and conditions that the board determines to be in the best interest of the county and in furtherance of the public purpose of the project. The board may establish ticket charges or surcharges for admission to events at a project, charges or surcharges for parking for events at a project, and charges for the use of a project or any portion of a project, including suites and

seating rights, and may, as necessary, enter into agreements 2935
related thereto with persons for a period, for consideration, 2936
and on other terms and conditions that the board determines to 2937
be in the best interest of the county and in furtherance of the 2938
public purpose of the project. A lease or agreement authorized 2939
by this division is not subject to sections 307.02, 307.09, and 2940
307.12 of the Revised Code. 2941

(H) Notwithstanding any contrary provision in Chapter 2942
5739. of the Revised Code, after adopting a resolution declaring 2943
it to be in the best interest of the county to undertake a 2944
project as described in division (G) of this section, the board 2945
of county commissioners of an eligible county may adopt a 2946
resolution enacting or increasing any lodging taxes within the 2947
limits specified in Chapter 5739. of the Revised Code with 2948
respect to those lodging taxes and amending any prior resolution 2949
under which any of its lodging taxes have been imposed in order 2950
to provide that those taxes, after deducting the real and actual 2951
costs of administering the taxes and any portion of the taxes 2952
returned to any municipal corporation or township as provided in 2953
division (A)~~(1)~~ of section 5739.09 of the Revised Code, shall be 2954
used by the board for the purposes of undertaking, financing, 2955
operating, and maintaining the project, including paying debt 2956
charges on any securities issued by the board under division (I) 2957
of this section, or to make contributions to the convention and 2958
visitors' bureau operating within the county, or to promote, 2959
advertise, and market the region in which the county is located, 2960
all as the board may determine and make appropriations for from 2961
time to time, subject to the terms of any pledge to the payment 2962
of debt charges on outstanding general obligation securities or 2963
special obligation securities authorized under division (I) of 2964
this section. A resolution adopted under division (H) of this 2965

section shall be adopted not earlier than January 15, 2007, and 2966
not later than January 15, 2008. 2967

A resolution adopted under division (H) of this section 2968
may direct the board of elections to submit the question of 2969
enacting or increasing lodging taxes, as the case may be, to the 2970
electors of the county at a special election held on the date 2971
specified by the board in the resolution, provided that the 2972
election occurs not less than ninety days after a certified copy 2973
of the resolution is transmitted to the board of elections and 2974
no later than January 15, 2008. A resolution submitted to the 2975
electors under this division shall not go into effect unless it 2976
is approved by a majority of those voting upon it. A resolution 2977
adopted under division (H) of this section that is not submitted 2978
to the electors of the county for their approval or disapproval 2979
is subject to a referendum as provided in sections 305.31 to 2980
305.41 of the Revised Code. 2981

A resolution adopted under division (H) of this section 2982
takes effect upon its adoption, unless the resolution is 2983
submitted to the electors of the county for their approval or 2984
disapproval, in which case the resolution takes effect on the 2985
date the board of county commissioners receives notification 2986
from the board of elections of the affirmative vote. Lodging 2987
taxes received after the effective date of the resolution may be 2988
used for the purposes described in division (H) of this section, 2989
except that lodging taxes that have been pledged to the payment 2990
of debt charges on any bonds or notes issued by or for the 2991
benefit of a convention and visitors' bureau under division (C) 2992
of this section shall be used exclusively for that purpose until 2993
such time as the bonds or notes are no longer outstanding under 2994
the trust agreement securing those bonds or notes. 2995

(I) (1) The board of county commissioners of a county with a population greater than four hundred thousand wherein the population of the largest city comprises more than one-third of that county's population may issue the following securities of the county for the purpose of paying costs of the project, refunding any outstanding county securities issued for that purpose, refunding any outstanding bonds or notes issued by or for the benefit of the bureau under division (C) of this section, or for any combination of those purposes:

(a) General obligation securities issued under Chapter 133. of the Revised Code. The resolution authorizing these securities may include covenants to appropriate annually from lawfully available lodging taxes, and to continue to levy and collect those lodging taxes in, amounts necessary to meet the debt charges on those securities.

(b) Special obligation securities issued under Chapter 133. of the Revised Code that are secured only by lawfully available lodging taxes and any other taxes and revenues pledged to pay the debt charges on those securities, except ad valorem property taxes. The resolution authorizing those securities shall include a pledge of and covenants to appropriate annually from lawfully available lodging taxes and any other taxes and revenues pledged for such purpose, and to continue to collect any of those revenues pledged for such purpose and to levy and collect those lodging taxes and any other taxes pledged for such purpose, in amounts necessary to meet the debt charges on those securities. The pledge is valid and binding from the time the pledge is made, and the lodging taxes so pledged and thereafter received by the county are immediately subject to the lien of the pledge without any physical delivery of the lodging taxes or further act. The lien of any pledge is valid and binding as

against all parties having claims of any kind in tort, contract, 3027
or otherwise against the county, regardless of whether such 3028
parties have notice of the lien. Neither the resolution nor any 3029
trust agreement by which a pledge is created or further 3030
evidenced is required to be filed or recorded except in the 3031
records of the board. The special obligation securities shall 3032
contain a statement on their face to the effect that they are 3033
not general obligation securities, and, unless paid from other 3034
sources, are payable from the pledged lodging taxes. 3035

(c) Revenue securities authorized under section 133.08 of 3036
the Revised Code and issued under Chapter 133. of the Revised 3037
Code that are secured only by lawfully available project 3038
revenues pledged to pay the debt charges on those securities. 3039

(2) The securities described in division (I)(1) of this 3040
section are subject to Chapter 133. of the Revised Code. 3041

(3) Section 133.34 of the Revised Code, except for 3042
division (A) of that section, applies to the issuance of any 3043
refunding securities authorized under this division. In lieu of 3044
division (A) of section 133.34 of the Revised Code, the board of 3045
county commissioners shall establish the maturity date or dates, 3046
the interest payable on, and other terms of refunding securities 3047
as it considers necessary or appropriate for their issuance, 3048
provided that the final maturity of refunding securities shall 3049
not exceed by more than ten years the final maturity of any 3050
bonds refunded by refunding securities. 3051

(4) The board may not repeal, rescind, or reduce all or 3052
any portion of any lodging taxes pledged to the payment of debt 3053
charges on any outstanding special obligation securities 3054
authorized under this division, and no portion of any lodging 3055
taxes that is pledged, or that the board has covenanted to levy, 3056

collect, and appropriate annually to pay debt charges on any 3057
outstanding securities authorized under this division is subject 3058
to repeal, rescission, or reduction by the electorate of the 3059
county. 3060

Sec. 319.301. (A) The reductions required by division (D) 3061
of this section do not apply to any of the following: 3062

(1) Taxes levied at whatever rate is required to produce a 3063
specified amount of tax money, including a tax levied under 3064
section 5705.199, ~~5705.211~~, or 5748.09 of the Revised Code, or 3065
an amount to pay debt charges; 3066

(2) Taxes levied within the one per cent limitation 3067
imposed by Section 2 of Article XII, Ohio Constitution; 3068

(3) Taxes provided for by the charter of a municipal 3069
corporation. 3070

(B) As used in this section: 3071

(1) "Real property" includes real property owned by a 3072
railroad. 3073

(2) "Carryover property" means all real property on the 3074
current year's tax list except: 3075

(a) Land and improvements that were not taxed by the 3076
district in both the preceding year and the current year; 3077

(b) Land and improvements that were not in the same class 3078
in both the preceding year and the current year. 3079

(3) "Effective tax rate" means with respect to each class 3080
of property: 3081

(a) The sum of the total taxes that would have been 3082
charged and payable for current expenses against real property 3083

in that class if each of the district's taxes were reduced for 3084
the current year under division (D) (1) of this section without 3085
regard to the application of division (E) (3) of this section 3086
divided by 3087

(b) The taxable value of all real property in that class. 3088

(4) "Taxes charged and payable" means the taxes charged 3089
and payable prior to any reduction required by section 319.302 3090
of the Revised Code. 3091

(C) The tax commissioner shall make the determinations 3092
required by this section each year, without regard to whether a 3093
taxing district has territory in a county to which section 3094
5715.24 of the Revised Code applies for that year. Separate 3095
determinations shall be made for each of the two classes 3096
established pursuant to section 5713.041 of the Revised Code. 3097

(D) With respect to each tax authorized to be levied by 3098
each taxing district, the tax commissioner, annually, shall do 3099
both of the following: 3100

(1) Determine by what percentage, if any, the sums levied 3101
by such tax against the carryover property in each class would 3102
have to be reduced for the tax to levy the same number of 3103
dollars against such property in that class in the current year 3104
as were charged against such property by such tax in the 3105
preceding year subsequent to the reduction made under this 3106
section but before the reduction made under section 319.302 of 3107
the Revised Code. In the case of a tax levied for the first time 3108
that is not a renewal of an existing tax, the commissioner shall 3109
determine by what percentage the sums that would otherwise be 3110
levied by such tax against carryover property in each class 3111
would have to be reduced to equal the amount that would have 3112

been levied if the full rate thereof had been imposed against 3113
the total taxable value of such property in the preceding tax 3114
year. A tax or portion of a tax that is designated a replacement 3115
levy under section 5705.192 of the Revised Code is not a renewal 3116
of an existing tax for purposes of this division. 3117

(2) Certify each percentage determined in division (D) (1) 3118
of this section, as adjusted under division (E) of this section, 3119
and the class of property to which that percentage applies to 3120
the auditor of each county in which the district has territory. 3121
The auditor, after complying with section 319.30 of the Revised 3122
Code, shall reduce the sum to be levied by such tax against each 3123
parcel of real property in the district by the percentage so 3124
certified for its class. Certification shall be made by the 3125
first day of September except in the case of a tax levied for 3126
the first time, in which case certification shall be made within 3127
fifteen days of the date the county auditor submits the 3128
information necessary to make the required determination. 3129

(E) (1) As used in division (E) (2) of this section, "pre- 3130
1982 joint vocational taxes" means, with respect to a class of 3131
property, the difference between the following amounts: 3132

(a) The taxes charged and payable in tax year 1981 against 3133
the property in that class for the current expenses of the joint 3134
vocational school district of which the school district is a 3135
part after making all reductions under this section; 3136

(b) ~~The following percentage Two-tenths of one per cent of~~ 3137
the taxable value of all real property in that class+ 3138

~~(i) In 1987, five one-hundredths of one per cent;~~ 3139

~~(ii) In 1988, one-tenth of one per cent;~~ 3140

~~(iii) In 1989, fifteen one-hundredths of one per cent;~~ 3141

~~(iv) In 1990 and each subsequent year, two tenths of one per cent.~~ 3142
3143

If the amount in division (E) (1) (b) of this section 3144
exceeds the amount in division (E) (1) (a) of this section, the 3145
pre-1982 joint vocational taxes shall be zero. 3146

As used in divisions (E) (2) and (3) of this section, 3147
"taxes charged and payable" has the same meaning as in division 3148
(B) (4) of this section and excludes any tax charged and payable 3149
in 1985 or thereafter under sections 5705.194 to 5705.197 or 3150
section 5705.199, 5705.213, 5705.219, or 5748.09 of the Revised 3151
Code. 3152

(2) If in the case of a school district other than a joint 3153
vocational or cooperative education school district any 3154
percentage required to be used in division (D) (2) of this 3155
section for either class of property could cause the total taxes 3156
charged and payable for current expenses to be less than two per 3157
cent of the taxable value of all real property in that class 3158
that is subject to taxation by the district, the commissioner 3159
shall determine what percentages would cause the district's 3160
total taxes charged and payable for current expenses against 3161
that class, after all reductions that would otherwise be made 3162
under this section, to equal, when combined with the pre-1982 3163
joint vocational taxes against that class, the lesser of the 3164
following: 3165

(a) The sum of the rates at which those taxes are 3166
authorized to be levied; 3167

(b) Two per cent of the taxable value of the property in 3168
that class. The auditor shall use such percentages in making the 3169
reduction required by this section for that class. 3170

(3) ~~(a)~~ If in the case of a joint vocational school district any percentage required to be used in division (D) (2) of this section for either class of property could cause the total taxes charged and payable for current expenses for that class to be less than ~~the designated amount~~ two-tenths of one per cent of the taxable value of that class, the commissioner shall determine what percentages would cause the district's total taxes charged and payable for current expenses for that class, after all reductions that would otherwise be made under this section, to equal ~~the designated~~ that amount. The auditor shall use such percentages in making the reductions required by this section for that class.

~~(b) As used in division (E) (3) (a) of this section, the designated amount shall equal the taxable value of all real property in the class that is subject to taxation by the district times the lesser of the following:~~

~~(i) Two tenths of one per cent;~~

~~(ii) The district's effective rate plus the following percentage for the year indicated:~~

~~WHEN COMPUTING THE TAXES CHARGED FOR~~ ~~ADD THE FOLLOWING~~ ~~PERCENTAGE:~~

~~1987~~ ~~0.025%~~

~~1988~~ ~~0.05%~~

~~1989~~ ~~0.075%~~

~~1990~~ ~~0.1%~~

~~1991~~ ~~0.125%~~

~~1992~~ ~~0.15%~~

1993 0.175%	3198
1994 and thereafter 0.2%	3199
(F) No reduction shall be made under this section in the rate at which any tax is levied.	3200 3201
(G) The commissioner may order a county auditor to furnish any information the commissioner needs to make the determinations required under division (D) or (E) of this section, and the auditor shall supply the information in the form and by the date specified in the order. If the auditor fails to comply with an order issued under this division, except for good cause as determined by the commissioner, the commissioner shall withhold from such county or taxing district therein fifty per cent of state revenues to local governments pursuant to section 5747.50 of the Revised Code or shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to Chapter 3317. of the Revised Code. The commissioner shall withhold the distribution of such revenues until the county auditor has complied with this division, and the department shall withhold the distribution of such revenues until the commissioner has notified the department that the county auditor has complied with this division.	3202 3203 3204 3205 3206 3207 3208 3209 3210 3211 3212 3213 3214 3215 3216 3217 3218 3219
(H) If the commissioner is unable to certify a tax reduction factor for either class of property in a taxing district located in more than one county by the last day of November because information required under division (G) of this section is unavailable, the commissioner may compute and certify an estimated tax reduction factor for that district for that class. The estimated factor shall be based upon an estimate of the unavailable information. Upon receipt of the actual	3220 3221 3222 3223 3224 3225 3226 3227

information for a taxing district that received an estimated tax 3228
reduction factor, the commissioner shall compute the actual tax 3229
reduction factor and use that factor to compute the taxes that 3230
should have been charged and payable against each parcel of 3231
property for the year for which the estimated reduction factor 3232
was used. The amount by which the estimated factor resulted in 3233
an overpayment or underpayment in taxes on any parcel shall be 3234
added to or subtracted from the amount due on that parcel in the 3235
ensuing tax year. 3236

A percentage or a tax reduction factor determined or 3237
computed by the commissioner under this section shall be used 3238
solely for the purpose of reducing the sums to be levied by the 3239
tax to which it applies for the year for which it was determined 3240
or computed. It shall not be used in making any tax computations 3241
for any ensuing tax year. 3242

(I) In making the determinations under division (D) (1) of 3243
this section, the tax commissioner shall take account of changes 3244
in the taxable value of carryover property resulting from 3245
complaints filed under section 5715.19 of the Revised Code for 3246
determinations made for the tax year in which such changes are 3247
reported to the commissioner. Such changes shall be reported to 3248
the commissioner on the first abstract of real property filed 3249
with the commissioner under section 5715.23 of the Revised Code 3250
following the date on which the complaint is finally determined 3251
by the board of revision or by a court or other authority with 3252
jurisdiction on appeal. The tax commissioner shall account for 3253
such changes in making the determinations only for the tax year 3254
in which the change in valuation is reported. Such a valuation 3255
change shall not be used to recompute the percentages determined 3256
under division (D) (1) of this section for any prior tax year. 3257

Sec. 321.03. At the request of the county treasurer, a 3258
board of county commissioners may enter into a contract with any 3259
financial institution under which the financial institution, in 3260
accordance with the terms of the contract, receives at a post 3261
office box any type of payment or fee owed or payable to the 3262
county, opens the mail delivered to that box, processes the 3263
checks and other payments received in such mail and deposits 3264
them into the treasurer's account, and provides the county, ~~the~~ 3265
treasurer daily receipt information with respect to such 3266
payments. The contract may provide for the financial institution 3267
to receive at the post office box those payments and fees 3268
specifically named in the contract or all payments and fees 3269
payable to the county, including, but not limited to, utility, 3270
sewer, water, refuse collection, waste disposal, and airport 3271
fees, but in any case excluding taxes. The contract shall not be 3272
entered into unless: 3273

(A) There is attached to the contract a certification by 3274
the auditor of state that the financial institution and the 3275
treasurer have given assurances satisfactory to the auditor of 3276
state that the records of the financial institution, to the 3277
extent that they relate to payments covered by the contract, 3278
shall be subject to examination by the auditor of state to the 3279
same extent as if the services that the financial institution 3280
has agreed to perform were being performed by the treasurer. 3281

(B) The contract is awarded in accordance with sections 3282
307.86 to 307.92 of the Revised Code. 3283

(C) The treasurer's surety bond includes within its 3284
coverage any loss that might occur as the result of the 3285
contract. 3286

(D) The provisions of the contract do not conflict with 3287

accounting and reporting requirements prescribed by the auditor 3288
of state. 3289

Sec. 321.20. On the first day of each month in each year, 3290
the county treasurer shall deposit with the county auditor all 3291
warrants ~~he~~ the treasurer has ~~redeemed~~ redeemed and take the 3292
auditor's receipt for them. 3293

Sec. 323.154. The county auditor shall approve or deny an 3294
application for reduction under section 323.152 of the Revised 3295
Code and shall so notify the applicant ~~not later than the first~~ 3296
~~Monday in October~~ within thirty days after the application is 3297
approved or denied. Notification shall be provided on a form 3298
prescribed by the tax commissioner. If the application is 3299
approved, upon issuance of the notification the county auditor 3300
shall record the amount of reduction in taxes in the appropriate 3301
column on the general tax list and duplicate of real and public 3302
utility property and on the manufactured home tax list. If the 3303
application is denied, the notification shall inform the 3304
applicant of the reasons for the denial. 3305

If an applicant believes that the application for 3306
reduction has been improperly denied or that the reduction is 3307
for less than that to which the applicant is entitled, the 3308
applicant may file an appeal with the county board of revision 3309
not later than ~~the date of closing of the collection for the~~ 3310
~~first half of real and public utility property taxes or~~ 3311
~~manufactured home taxes~~ sixty days after the notification was 3312
issued under this section. The appeal shall be treated in the 3313
same manner as a complaint relating to the valuation or 3314
assessment of real property under Chapter 5715. of the Revised 3315
Code. 3316

Sec. 351.01. As used in this chapter: 3317

(A) "Convention facilities authority" means a body 3318
corporate and politic created pursuant to section 351.02 of the 3319
Revised Code. 3320

(B) "Governmental agency" means a department, division, or 3321
other unit of the state government or of a municipal 3322
corporation, county, township, or other political subdivision of 3323
the state; any state university or college, as defined in 3324
section 3345.12 of the Revised Code, community college, state 3325
community college, university branch, or technical college; any 3326
other public corporation or agency having the power to acquire, 3327
construct, or operate facilities; the United States or any 3328
agency thereof; and any agency, commission, or authority 3329
established pursuant to an interstate compact or agreement. 3330

(C) "Person" means any individual, firm, partnership, 3331
association, or corporation, or any combination of them. 3332

(D) "Facility" or "facilities" means any convention, 3333
entertainment, or sports facility, or combination of them, 3334
located within the territory of the convention facilities 3335
authority, together with all hotels, parking facilities, 3336
walkways, and other auxiliary facilities, real and personal 3337
property, property rights, easements and interests that may be 3338
appropriate for, or used in connection with, the operation of 3339
the facility. 3340

(E) "Cost" means the cost of acquisition of all land, 3341
rights-of-way, property rights, easements, franchise rights, and 3342
interests required for such acquisition; the cost of demolishing 3343
or removing any buildings or structures on land so acquired, 3344
including the cost of acquiring any lands to which such 3345
buildings or structures may be moved; the cost of acquiring or 3346
constructing and equipping a principal office of the convention 3347

facilities authority; the cost of diverting highways, 3348
interchange of highways, access roads to private property, 3349
including the cost of land or easements for such access roads; 3350
the cost of public utility and common carrier relocation or 3351
duplication; the cost of all machinery, furnishings, and 3352
equipment; financing charges; interest prior to and during 3353
construction and for no more than eighteen months after 3354
completion of construction; expenses of research and development 3355
with respect to facilities; legal expenses; expenses of 3356
obtaining plans, specifications, engineering surveys, studies, 3357
and estimates of cost and revenues; working capital; expenses 3358
necessary or incident to determining the feasibility or 3359
practicability of acquiring or constructing such facility; 3360
administrative expense; and such other expenses as may be 3361
necessary or incident to the acquisition or construction of the 3362
facility, the financing of such acquisition or construction, 3363
including the amount authorized in the resolution of the 3364
convention facilities authority providing for the issuance of 3365
convention facilities authority revenue bonds to be paid into 3366
any special funds from the proceeds of such bonds, the cost of 3367
issuing the bonds, and the financing of the placing of such 3368
facility in operation. Any obligation, cost, or expense incurred 3369
by any governmental agency or person for surveys, borings, 3370
preparation of plans and specifications, and other engineering 3371
services, or any other cost described above, in connection with 3372
the acquisition or construction of a facility may be regarded as 3373
part of the cost of such facility and may be reimbursed out of 3374
the proceeds of convention facilities authority revenue bonds as 3375
authorized by this chapter. 3376

(F) "Owner" includes a person having any title or interest 3377
in any property, rights, easements, or interests authorized to 3378

be acquired by Chapter 351. of the Revised Code. 3379

(G) "Revenues" means all rentals and other charges 3380
received by the convention facilities authority for the use or 3381
services of any facility, the sale of any merchandise, or the 3382
operation of any concessions; any gift or grant received with 3383
respect to any facility, any moneys received with respect to the 3384
lease, sublease, sale, including installment sale or conditional 3385
sale, or other disposition of a facility or part thereof; moneys 3386
received in repayment of and for interest on any loans made by 3387
the authority to a person or governmental agency, whether from 3388
the United States or any department, administration, or agency 3389
thereof, or otherwise; proceeds of convention facilities 3390
authority revenue bonds to the extent the use thereof for 3391
payment of principal or of premium, if any, or interest on the 3392
bonds is authorized by the authority; proceeds from any 3393
insurance, appropriation, or guaranty pertaining to a facility 3394
or property mortgaged to secure bonds or pertaining to the 3395
financing of the facility; income and profit from the investment 3396
of the proceeds of convention facilities authority revenue bonds 3397
or of any revenues; contributions of the proceeds of a tax 3398
levied pursuant to division ~~(A) (3)~~ (C) of section 5739.09 of the 3399
Revised Code; and moneys transmitted to the authority pursuant 3400
to division (B) of section 5739.211 and division (B) of section 3401
5741.031 of the Revised Code. 3402

(H) "Public roads" includes all public highways, roads, 3403
and streets in the state, whether maintained by the state, 3404
county, city, township, or other political subdivision. 3405

(I) "Construction," unless the context indicates a 3406
different meaning or intent, includes, but is not limited to, 3407
reconstruction, enlargement, improvement, or providing fixtures, 3408

furnishings, and equipment.	3409
(J) "Convention facilities authority revenue bonds" or	3410
"revenue bonds," unless the context indicates a different	3411
meaning or intent, includes convention facilities authority	3412
revenue notes, convention facilities authority revenue renewal	3413
notes, and convention facilities authority revenue refunding	3414
bonds.	3415
(K) "Convention facilities authority tax anticipation	3416
bonds" or "tax anticipation bonds," unless the context indicates	3417
a different meaning, includes convention facilities authority	3418
tax anticipation bonds, tax anticipation notes, tax anticipation	3419
renewal notes, and tax anticipation refunding bonds.	3420
(L) "Bonds and notes" means convention facilities	3421
authority revenue bonds and convention facilities authority tax	3422
anticipation bonds.	3423
(M) "Territory of the authority" means all of the area of	3424
the county creating the convention facilities authority.	3425
(N) "Excise taxes" means any of the taxes levied pursuant	3426
to division (B) or (C) of section 351.021 of the Revised Code.	3427
"Excise taxes" does not include taxes levied pursuant to section	3428
4301.424, 5743.026, or 5743.324 of the Revised Code.	3429
(O) "Transaction" means the charge by a hotel for each	3430
occupancy by transient guests of a room or suite of rooms used	3431
in a hotel as a single unit for any period of twenty-four hours	3432
or less.	3433
(P) "Hotel" and "transient guests" have the same meanings	3434
as in section 5739.01 of the Revised Code.	3435
(Q) "Sports facility" means a facility intended to house	3436

major league professional athletic teams. 3437

(R) "Constructing" or "construction" includes providing 3438
fixtures, furnishings, and equipment. 3439

Sec. 351.03. (A) Except as provided in division ~~(A)(3)~~ (C) 3440
of section 5739.09 or in section 5739.026 of the Revised Code, 3441
no county creating a convention facilities authority may 3442
appropriate and expend public funds to finance or subsidize the 3443
operation of the authority. 3444

(B) Subject to making due provisions for payment and 3445
performance of its obligations, a convention facilities 3446
authority may be dissolved by the county creating it. In such 3447
event the properties of the authority shall be transferred to 3448
the county creating it, and the county may thereupon appropriate 3449
and expend public funds to finance or subsidize the operation of 3450
such facilities. 3451

Sec. 351.141. A convention facilities authority that 3452
levies any of the excise taxes authorized by division (B) or (C) 3453
of section 351.021 of the Revised Code or that receives 3454
contributions pursuant to division ~~(A)(3)~~ (C) of section 5739.09 3455
of the Revised Code, by resolution may anticipate the proceeds 3456
of the levy and issue convention facilities authority tax 3457
anticipation bonds, and notes anticipating the proceeds or the 3458
bonds, in the principal amount that, in the opinion of the 3459
authority, are necessary for the purpose of paying the cost of 3460
one or more facilities or parts of one or more facilities, and 3461
as able, with the interest on them, be paid over the term of the 3462
issue, or in the case of notes anticipating bonds over the term 3463
of the bonds, by the estimated amount of the excise taxes or 3464
contributions anticipated thereby. The excise taxes or 3465
contributions are determined by the general assembly to satisfy 3466

any applicable requirement of Section 11 of Article XII, Ohio 3467
Constitution. An authority, at any time, may issue renewal tax 3468
anticipation notes, issue tax anticipation bonds to pay such 3469
notes, and, whenever it considers refunding expedient, refund 3470
any tax anticipation bonds by the issuance of tax anticipation 3471
refunding bonds whether the bonds to be refunded have or have 3472
not matured, and issue tax anticipation bonds partly to refund 3473
bonds then outstanding and partly for any other authorized 3474
purpose. The refunding bonds shall be sold and the proceeds 3475
needed for such purpose applied in the manner provided in the 3476
bond proceedings to the purchase, redemption, or payment of the 3477
bonds to be refunded. 3478

Every issue of outstanding tax anticipation bonds shall be 3479
payable out of the proceeds of the excise taxes or contributions 3480
anticipated and other revenues of the authority that are pledged 3481
for such payment. The pledge shall be valid and binding from the 3482
time the pledge is made, and the anticipated excise taxes, 3483
contributions, and revenues so pledged and thereafter received 3484
by the authority immediately shall be subject to the lien of 3485
that pledge without any physical delivery of those excise taxes, 3486
contributions, and revenues or further act. The lien of any 3487
pledge is valid and binding as against all parties having claims 3488
of any kind in tort, contract, or otherwise against the 3489
authority, whether or not such parties have notice of the lien. 3490
Neither the resolution nor any trust agreement by which a pledge 3491
is created need be filed or recorded except in the authority's 3492
records. 3493

Whether or not the bonds or notes are of such form and 3494
character as to be negotiable instruments under Title XIII of 3495
the Revised Code, the bonds or notes shall have all the 3496
qualities and incidents of negotiable instruments, subject only 3497

to their provisions for registration, if any. 3498

The tax anticipation bonds shall bear such date or dates, 3499
and shall mature at such time or times, in the case of any such 3500
notes or any renewals of such notes not exceeding twenty years 3501
from the date of issue of such original notes and in the case of 3502
any such bonds or any refunding bonds not exceeding forty years 3503
from the date of the original issue of notes or bonds for the 3504
purpose, and shall be executed in the manner that the resolution 3505
authorizing the bonds may provide. The tax anticipation bonds 3506
shall bear interest at such rates, or at variable rate or rates 3507
changing from time to time, in accordance with provisions 3508
provided in the authorizing resolution, be in such denominations 3509
and form, either coupon or registered, carry such registration 3510
privileges, be payable in such medium of payment and at such 3511
place or places, and be subject to such terms of redemption, as 3512
the authority may authorize or provide. The tax anticipation 3513
bonds may be sold at public or private sale, and at, or at not 3514
less than the price or prices as the authority determines. If 3515
any officer whose signature or a facsimile of whose signature 3516
appears on any bonds or coupons ceases to be such officer before 3517
delivery of the bonds, the signature or facsimile shall 3518
nevertheless be sufficient for all purposes as if the officer 3519
had remained in office until delivery of the bonds, and in case 3520
the seal of the authority has been changed after a facsimile has 3521
been imprinted on the bonds, the facsimile seal will continue to 3522
be sufficient for all purposes. 3523

Any resolution or resolutions authorizing any tax 3524
anticipation bonds or any issue of tax anticipation bonds may 3525
contain provisions, subject to any agreements with bondholders 3526
as may then exist, which provisions shall be a part of the 3527
contract with the holders of the bonds, as to the pledging of 3528

any or all of the authority's anticipated excise taxes, 3529
contributions, and revenues to secure the payment of the bonds 3530
or of any issue of the bonds; the use and disposition of 3531
revenues of the authority; the crediting of the proceeds of the 3532
sale of bonds to and among the funds referred to or provided for 3533
in the resolution; limitations on the purpose to which the 3534
proceeds of sale of the bonds may be applied and the pledging of 3535
portions of such proceeds to secure the payment of the bonds or 3536
of any issue of the bonds; as to notes issued in anticipation of 3537
the issuance of bonds, the agreement of the authority to do all 3538
things necessary for the authorization, issuance, and sale of 3539
such bonds in such amounts as may be necessary for the timely 3540
retirement of such notes; limitations on the issuance of 3541
additional bonds; the terms upon which additional bonds may be 3542
issued and secured; the refunding of outstanding bonds; the 3543
procedure, if any, by which the terms of any contract with 3544
bondholders may be amended, the amount of bonds the holders of 3545
which must consent thereto, and the manner in which such consent 3546
may be given; securing any bonds by a trust agreement in 3547
accordance with section 351.16 of the Revised Code; any other 3548
matters, of like or different character, that in any way affect 3549
the security or protection of the bonds. The excise taxes 3550
anticipated by the bonds, including bonds anticipated by notes, 3551
shall not be subject to diminution by initiative or referendum 3552
or by law while the bonds or notes remain outstanding in 3553
accordance with their terms, unless provision is made by law or 3554
by the authority for an adequate substitute therefor reasonably 3555
satisfactory to the trustee, if a trust agreement secures the 3556
bonds. 3557

Neither the members of the board of directors of the 3558
authority nor any person executing the bonds shall be liable 3559

personally on the bonds or be subject to any personal liability 3560
or accountability by reason of the issuance thereof. 3561

Sec. 718.01. Any term used in this chapter that is not 3562
otherwise defined in this chapter has the same meaning as when 3563
used in a comparable context in laws of the United States 3564
relating to federal income taxation or in Title LVII of the 3565
Revised Code, unless a different meaning is clearly required. 3566
Except as provided in section 718.81 of the Revised Code, if a 3567
term used in this chapter that is not otherwise defined in this 3568
chapter is used in a comparable context in both the laws of the 3569
United States relating to federal income tax and in Title LVII 3570
of the Revised Code and the use is not consistent, then the use 3571
of the term in the laws of the United States relating to federal 3572
income tax shall control over the use of the term in Title LVII 3573
of the Revised Code. 3574

Except as otherwise provided in section 718.81 of the 3575
Revised Code, as used in this chapter: 3576

(A) (1) "Municipal taxable income" means the following: 3577

(a) For a person other than an individual, income 3578
apportioned or situated to the municipal corporation under 3579
section 718.02 of the Revised Code, as applicable, reduced by 3580
any pre-2017 net operating loss carryforward available to the 3581
person for the municipal corporation. 3582

(b) (i) For an individual who is a resident of a municipal 3583
corporation other than a qualified municipal corporation, income 3584
reduced by exempt income to the extent otherwise included in 3585
income, then reduced as provided in division (A) (2) of this 3586
section, and further reduced by any pre-2017 net operating loss 3587
carryforward available to the individual for the municipal 3588

corporation. 3589

(ii) For an individual who is a resident of a qualified 3590
municipal corporation, Ohio adjusted gross income reduced by 3591
income exempted, and increased by deductions excluded, by the 3592
qualified municipal corporation from the qualified municipal 3593
corporation's tax. If a qualified municipal corporation, on or 3594
before December 31, 2013, exempts income earned by individuals 3595
who are not residents of the qualified municipal corporation and 3596
net profit of persons that are not wholly located within the 3597
qualified municipal corporation, such individual or person shall 3598
have no municipal taxable income for the purposes of the tax 3599
levied by the qualified municipal corporation and may be 3600
exempted by the qualified municipal corporation from the 3601
requirements of section 718.03 of the Revised Code. 3602

(c) For an individual who is a nonresident of a municipal 3603
corporation, income reduced by exempt income to the extent 3604
otherwise included in income and then, as applicable, 3605
apportioned or situated to the municipal corporation under 3606
section 718.02 of the Revised Code, then reduced as provided in 3607
division (A)(2) of this section, and further reduced by any pre- 3608
2017 net operating loss carryforward available to the individual 3609
for the municipal corporation. 3610

(2) In computing the municipal taxable income of a 3611
taxpayer who is an individual, the taxpayer may subtract, as 3612
provided in division (A)(1)(b)(i) or (c) of this section, the 3613
amount of the individual's employee business expenses reported 3614
on the individual's form 2106 that the individual deducted for 3615
federal income tax purposes for the taxable year, subject to the 3616
limitation imposed by section 67 of the Internal Revenue Code. 3617
For the municipal corporation in which the taxpayer is a 3618

resident, the taxpayer may deduct all such expenses allowed for 3619
federal income tax purposes. For a municipal corporation in 3620
which the taxpayer is not a resident, the taxpayer may deduct 3621
such expenses only to the extent the expenses are related to the 3622
taxpayer's performance of personal services in that nonresident 3623
municipal corporation. 3624

(B) "Income" means the following: 3625

(1) (a) For residents, all income, salaries, qualifying 3626
wages, commissions, and other compensation from whatever source 3627
earned or received by the resident, including the resident's 3628
distributive share of the net profit of pass-through entities 3629
owned directly or indirectly by the resident and any net profit 3630
of the resident, except as provided in division (D) (5) of this 3631
section. 3632

(b) For the purposes of division (B) (1) (a) of this 3633
section: 3634

(i) Any net operating loss of the resident incurred in the 3635
taxable year and the resident's distributive share of any net 3636
operating loss generated in the same taxable year and 3637
attributable to the resident's ownership interest in a pass- 3638
through entity shall be allowed as a deduction, for that taxable 3639
year and the following five taxable years, against any other net 3640
profit of the resident or the resident's distributive share of 3641
any net profit attributable to the resident's ownership interest 3642
in a pass-through entity until fully utilized, subject to 3643
division (B) (1) (d) of this section; 3644

(ii) The resident's distributive share of the net profit 3645
of each pass-through entity owned directly or indirectly by the 3646
resident shall be calculated without regard to any net operating 3647

loss that is carried forward by that entity from a prior taxable 3648
year and applied to reduce the entity's net profit for the 3649
current taxable year. 3650

(c) Division (B)(1)(b) of this section does not apply with 3651
respect to any net profit or net operating loss attributable to 3652
an ownership interest in an S corporation unless shareholders' 3653
distributive shares of net profits from S corporations are 3654
subject to tax in the municipal corporation as provided in 3655
division (C)(14)(b) or (c) of this section. 3656

(d) Any amount of a net operating loss used to reduce a 3657
taxpayer's net profit for a taxable year shall reduce the amount 3658
of net operating loss that may be carried forward to any 3659
subsequent year for use by that taxpayer. In no event shall the 3660
cumulative deductions for all taxable years with respect to a 3661
taxpayer's net operating loss exceed the original amount of that 3662
net operating loss available to that taxpayer. 3663

(2) In the case of nonresidents, all income, salaries, 3664
qualifying wages, commissions, and other compensation from 3665
whatever source earned or received by the nonresident for work 3666
done, services performed or rendered, or activities conducted in 3667
the municipal corporation, including any net profit of the 3668
nonresident, but excluding the nonresident's distributive share 3669
of the net profit or loss of only pass-through entities owned 3670
directly or indirectly by the nonresident. 3671

(3) For taxpayers that are not individuals, net profit of 3672
the taxpayer; 3673

(4) Lottery, sweepstakes, gambling and sports winnings, 3674
winnings from games of chance, and prizes and awards. If the 3675
taxpayer is a professional gambler for federal income tax 3676

purposes, the taxpayer may deduct related wagering losses and 3677
expenses to the extent authorized under the Internal Revenue 3678
Code and claimed against such winnings. 3679

(C) "Exempt income" means all of the following: 3680

(1) The military pay or allowances of members of the armed 3681
forces of the United States or members of their reserve 3682
components, including the national guard of any state; 3683

(2) (a) Except as provided in division (C) (2) (b) of this 3684
section, intangible income; 3685

(b) A municipal corporation that taxed any type of 3686
intangible income on March 29, 1988, pursuant to Section 3 of 3687
S.B. 238 of the 116th general assembly, may continue to tax that 3688
type of income if a majority of the electors of the municipal 3689
corporation voting on the question of whether to permit the 3690
taxation of that type of intangible income after 1988 voted in 3691
favor thereof at an election held on November 8, 1988. 3692

(3) Social security benefits, railroad retirement 3693
benefits, unemployment compensation, pensions, retirement 3694
benefit payments, payments from annuities, and similar payments 3695
made to an employee or to the beneficiary of an employee under a 3696
retirement program or plan, disability payments received from 3697
private industry or local, state, or federal governments or from 3698
charitable, religious or educational organizations, and the 3699
proceeds of sickness, accident, or liability insurance policies. 3700
As used in division (C) (3) of this section, "unemployment 3701
compensation" does not include supplemental unemployment 3702
compensation described in section 3402(o) (2) of the Internal 3703
Revenue Code. 3704

(4) The income of religious, fraternal, charitable, 3705

scientific, literary, or educational institutions to the extent 3706
such income is derived from tax-exempt real estate, tax-exempt 3707
tangible or intangible property, or tax-exempt activities. 3708

(5) Compensation paid under section 3501.28 or 3501.36 of 3709
the Revised Code to a person serving as a precinct election 3710
official to the extent that such compensation does not exceed 3711
one thousand dollars for the taxable year. Such compensation in 3712
excess of one thousand dollars for the taxable year may be 3713
subject to taxation by a municipal corporation. A municipal 3714
corporation shall not require the payer of such compensation to 3715
withhold any tax from that compensation. 3716

(6) Dues, contributions, and similar payments received by 3717
charitable, religious, educational, or literary organizations or 3718
labor unions, lodges, and similar organizations; 3719

(7) Alimony and child support received; 3720

(8) Compensation for personal injuries or for damages to 3721
property from insurance proceeds or otherwise, excluding 3722
compensation paid for lost salaries or wages or compensation 3723
from punitive damages; 3724

(9) Income of a public utility when that public utility is 3725
subject to the tax levied under section 5727.24 or 5727.30 of 3726
the Revised Code. Division (C) (9) of this section does not apply 3727
for purposes of Chapter 5745. of the Revised Code. 3728

(10) Gains from involuntary conversions, interest on 3729
federal obligations, items of income subject to a tax levied by 3730
the state and that a municipal corporation is specifically 3731
prohibited by law from taxing, and income of a decedent's estate 3732
during the period of administration except such income from the 3733
operation of a trade or business; 3734

(11) Compensation or allowances excluded from federal	3735
gross income under section 107 of the Internal Revenue Code;	3736
(12) Employee compensation that is not qualifying wages as	3737
defined in division (R) of this section;	3738
(13) Compensation paid to a person employed within the	3739
boundaries of a United States air force base under the	3740
jurisdiction of the United States air force that is used for the	3741
housing of members of the United States air force and is a	3742
center for air force operations, unless the person is subject to	3743
taxation because of residence or domicile. If the compensation	3744
is subject to taxation because of residence or domicile, tax on	3745
such income shall be payable only to the municipal corporation	3746
of residence or domicile.	3747
(14) (a) Except as provided in division (C) (14) (b) or (c)	3748
of this section, an S corporation shareholder's distributive	3749
share of net profits of the S corporation, other than any part	3750
of the distributive share of net profits that represents wages	3751
as defined in section 3121(a) of the Internal Revenue Code or	3752
net earnings from self-employment as defined in section 1402(a)	3753
of the Internal Revenue Code.	3754
(b) If, pursuant to division (H) of former section 718.01	3755
of the Revised Code as it existed before March 11, 2004, a	3756
majority of the electors of a municipal corporation voted in	3757
favor of the question at an election held on November 4, 2003,	3758
the municipal corporation may continue after 2002 to tax an S	3759
corporation shareholder's distributive share of net profits of	3760
an S corporation.	3761
(c) If, on December 6, 2002, a municipal corporation was	3762
imposing, assessing, and collecting a tax on an S corporation	3763

shareholder's distributive share of net profits of the S 3764
corporation to the extent the distributive share would be 3765
allocated or apportioned to this state under divisions (B) (1) 3766
and (2) of section 5733.05 of the Revised Code if the S 3767
corporation were a corporation subject to taxes imposed under 3768
Chapter 5733. of the Revised Code, the municipal corporation may 3769
continue to impose the tax on such distributive shares to the 3770
extent such shares would be so allocated or apportioned to this 3771
state only until December 31, 2004, unless a majority of the 3772
electors of the municipal corporation voting on the question of 3773
continuing to tax such shares after that date voted in favor of 3774
that question at an election held November 2, 2004. If a 3775
majority of those electors voted in favor of the question, the 3776
municipal corporation may continue after December 31, 2004, to 3777
impose the tax on such distributive shares only to the extent 3778
such shares would be so allocated or apportioned to this state. 3779

(d) A municipal corporation shall be deemed to have 3780
elected to tax S corporation shareholders' distributive shares 3781
of net profits of the S corporation in the hands of the 3782
shareholders if a majority of the electors of a municipal 3783
corporation voted in favor of a question at an election held 3784
under division (C) (14) (b) or (c) of this section. The municipal 3785
corporation shall specify by resolution or ordinance that the 3786
tax applies to the distributive share of a shareholder of an S 3787
corporation in the hands of the shareholder of the S 3788
corporation. 3789

(15) To the extent authorized under a resolution or 3790
ordinance adopted by a municipal corporation before January 1, 3791
2016, all or a portion of the income of individuals or a class 3792
of individuals under eighteen years of age. 3793

(16) (a) Except as provided in divisions (C) (16) (b), (c), 3794
and (d) of this section, qualifying wages described in division 3795
(B) (1) or (E) of section 718.011 of the Revised Code to the 3796
extent the qualifying wages are not subject to withholding for 3797
the municipal corporation under either of those divisions. 3798

(b) The exemption provided in division (C) (16) (a) of this 3799
section does not apply with respect to the municipal corporation 3800
in which the employee resided at the time the employee earned 3801
the qualifying wages. 3802

(c) The exemption provided in division (C) (16) (a) of this 3803
section does not apply to qualifying wages that an employer 3804
elects to withhold under division (D) (2) of section 718.011 of 3805
the Revised Code. 3806

(d) The exemption provided in division (C) (16) (a) of this 3807
section does not apply to qualifying wages if both of the 3808
following conditions apply: 3809

(i) For qualifying wages described in division (B) (1) of 3810
section 718.011 of the Revised Code, the employee's employer 3811
withholds and remits tax on the qualifying wages to the 3812
municipal corporation in which the employee's principal place of 3813
work is situated, or, for qualifying wages described in division 3814
(E) of section 718.011 of the Revised Code, the employee's 3815
employer withholds and remits tax on the qualifying wages to the 3816
municipal corporation in which the employer's fixed location is 3817
located; 3818

(ii) The employee receives a refund of the tax described 3819
in division (C) (16) (d) (i) of this section on the basis of the 3820
employee not performing services in that municipal corporation. 3821

(17) (a) Except as provided in division (C) (17) (b) or (c) 3822

of this section, compensation that is not qualifying wages paid 3823
to a nonresident individual for personal services performed in 3824
the municipal corporation on not more than twenty days in a 3825
taxable year. 3826

(b) The exemption provided in division (C) (17) (a) of this 3827
section does not apply under either of the following 3828
circumstances: 3829

(i) The individual's base of operation is located in the 3830
municipal corporation. 3831

(ii) The individual is a professional athlete, 3832
professional entertainer, or public figure, and the compensation 3833
is paid for the performance of services in the individual's 3834
capacity as a professional athlete, professional entertainer, or 3835
public figure. For purposes of division (C) (17) (b) (ii) of this 3836
section, "professional athlete," "professional entertainer," and 3837
"public figure" have the same meanings as in section 718.011 of 3838
the Revised Code. 3839

(c) Compensation to which division (C) (17) of this section 3840
applies shall be treated as earned or received at the 3841
individual's base of operation. If the individual does not have 3842
a base of operation, the compensation shall be treated as earned 3843
or received where the individual is domiciled. 3844

(d) For purposes of division (C) (17) of this section, 3845
"base of operation" means the location where an individual owns 3846
or rents an office, storefront, or similar facility to which the 3847
individual regularly reports and at which the individual 3848
regularly performs personal services for compensation. 3849

(18) Compensation paid to a person for personal services 3850
performed for a political subdivision on property owned by the 3851

political subdivision, regardless of whether the compensation is 3852
received by an employee of the subdivision or another person 3853
performing services for the subdivision under a contract with 3854
the subdivision, if the property on which services are performed 3855
is annexed to a municipal corporation pursuant to section 3856
709.023 of the Revised Code on or after March 27, 2013, unless 3857
the person is subject to such taxation because of residence. If 3858
the compensation is subject to taxation because of residence, 3859
municipal income tax shall be payable only to the municipal 3860
corporation of residence. 3861

(19) In the case of a tax administered, collected, and 3862
enforced by a municipal corporation pursuant to an agreement 3863
with the board of directors of a joint economic development 3864
district under section 715.72 of the Revised Code, the net 3865
profits of a business, and the income of the employees of that 3866
business, exempted from the tax under division (Q) of that 3867
section. 3868

(20) All of the following: 3869

(a) Income derived from disaster work conducted in this 3870
state by an out-of-state disaster business during a disaster 3871
response period pursuant to a qualifying solicitation received 3872
by the business; 3873

(b) Income of a qualifying employee described in division 3874
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 3875
such income is derived from disaster work conducted in this 3876
state by the employee during a disaster response period pursuant 3877
to a qualifying solicitation received by the employee's 3878
employer; 3879

(c) Income of a qualifying employee described in division 3880

(A) (14) (b) of section 5703.94 of the Revised Code, to the extent 3881
such income is derived from disaster work conducted in this 3882
state by the employee during a disaster response period on 3883
critical infrastructure owned or used by the employee's 3884
employer. 3885

(21) Income the taxation of which is prohibited by the 3886
constitution or laws of the United States. 3887

Any item of income that is exempt income of a pass-through 3888
entity under division (C) of this section is exempt income of 3889
each owner of the pass-through entity to the extent of that 3890
owner's distributive or proportionate share of that item of the 3891
entity's income. 3892

(D) (1) "Net profit" for a person who is an individual 3893
means the individual's net profit required to be reported on 3894
schedule C, schedule E, or schedule F reduced by any net 3895
operating loss carried forward. For the purposes of division (D) 3896
(1) of this section, the net operating loss carried forward 3897
shall be calculated and deducted in the same manner as provided 3898
in division (D) (3) of this section. 3899

(2) "Net profit" for a person other than an individual 3900
means adjusted federal taxable income reduced by any net 3901
operating loss incurred by the person in a taxable year 3902
beginning on or after January 1, 2017, subject to the 3903
limitations of division (D) (3) of this section. 3904

(3) (a) The amount of such net operating loss shall be 3905
deducted from net profit to the extent necessary to reduce 3906
municipal taxable income to zero, with any remaining unused 3907
portion of the net operating loss carried forward to not more 3908
than five consecutive taxable years following the taxable year 3909

in which the loss was incurred, but in no case for more years 3910
than necessary for the deduction to be fully utilized. 3911

(b) No person shall use the deduction allowed by division 3912
(D) (3) of this section to offset qualifying wages. 3913

(c) (i) For taxable years beginning in 2018, 2019, 2020, 3914
2021, or 2022, a person may not deduct, for purposes of an 3915
income tax levied by a municipal corporation that levies an 3916
income tax before January 1, 2016, more than fifty per cent of 3917
the amount of the deduction otherwise allowed by division (D) (3) 3918
of this section. 3919

(ii) For taxable years beginning in 2023 or thereafter, a 3920
person may deduct, for purposes of an income tax levied by a 3921
municipal corporation that levies an income tax before January 3922
1, 2016, the full amount allowed by division (D) (3) of this 3923
section without regard to the limitation of division (D) (3) (b) 3924
(i) of this section. 3925

(d) Any pre-2017 net operating loss carryforward deduction 3926
that is available may be utilized before a taxpayer may deduct 3927
any amount pursuant to division (D) (3) of this section. 3928

(e) Nothing in division (D) (3) (c) (i) of this section 3929
precludes a person from carrying forward, for use with respect 3930
to any return filed for a taxable year beginning after 2018, any 3931
amount of net operating loss that was not fully utilized by 3932
operation of division (D) (3) (c) (i) of this section. To the 3933
extent that an amount of net operating loss that was not fully 3934
utilized in one or more taxable years by operation of division 3935
(D) (3) (c) (i) of this section is carried forward for use with 3936
respect to a return filed for a taxable year beginning in 2019, 3937
2020, 2021, or 2022, the limitation described in division (D) (3) 3938

(c) (i) of this section shall apply to the amount carried 3939
forward. 3940

(4) For the purposes of this chapter, and notwithstanding 3941
division (D) (2) of this section, net profit of a disregarded 3942
entity shall not be taxable as against that disregarded entity, 3943
but shall instead be included in the net profit of the owner of 3944
the disregarded entity. 3945

(5) For the purposes of this chapter, and notwithstanding 3946
any other provision of this chapter, the net profit of a 3947
publicly traded partnership that makes the election described in 3948
division (D) (5) of this section shall be taxed as if the 3949
partnership were a C corporation, and shall not be treated as 3950
the net profit or income of any owner of the partnership. 3951

A publicly traded partnership that is treated as a 3952
partnership for federal income tax purposes and that is subject 3953
to tax on its net profits in one or more municipal corporations 3954
in this state may elect to be treated as a C corporation for 3955
municipal income tax purposes. The publicly traded partnership 3956
shall make the election in every municipal corporation in which 3957
the partnership is subject to taxation on its net profits. The 3958
election shall be made on the annual tax return filed in each 3959
such municipal corporation. The publicly traded partnership 3960
shall not be required to file the election with any municipal 3961
corporation in which the partnership is not subject to taxation 3962
on its net profits, but division (D) (5) of this section applies 3963
to all municipal corporations in which an individual owner of 3964
the partnership resides. 3965

(E) "Adjusted federal taxable income," for a person 3966
required to file as a C corporation, or for a person that has 3967
elected to be taxed as a C corporation under division (D) (5) of 3968

this section, means a C corporation's federal taxable income 3969
before net operating losses and special deductions as determined 3970
under the Internal Revenue Code, adjusted as follows: 3971

(1) Deduct intangible income to the extent included in 3972
federal taxable income. The deduction shall be allowed 3973
regardless of whether the intangible income relates to assets 3974
used in a trade or business or assets held for the production of 3975
income. 3976

(2) Add an amount equal to five per cent of intangible 3977
income deducted under division (E) (1) of this section, but 3978
excluding that portion of intangible income directly related to 3979
the sale, exchange, or other disposition of property described 3980
in section 1221 of the Internal Revenue Code; 3981

(3) Add any losses allowed as a deduction in the 3982
computation of federal taxable income if the losses directly 3983
relate to the sale, exchange, or other disposition of an asset 3984
described in section 1221 or 1231 of the Internal Revenue Code; 3985

(4) (a) Except as provided in division (E) (4) (b) of this 3986
section, deduct income and gain included in federal taxable 3987
income to the extent the income and gain directly relate to the 3988
sale, exchange, or other disposition of an asset described in 3989
section 1221 or 1231 of the Internal Revenue Code; 3990

(b) Division (E) (4) (a) of this section does not apply to 3991
the extent the income or gain is income or gain described in 3992
section 1245 or 1250 of the Internal Revenue Code. 3993

(5) Add taxes on or measured by net income allowed as a 3994
deduction in the computation of federal taxable income; 3995

(6) In the case of a real estate investment trust or 3996
regulated investment company, add all amounts with respect to 3997

dividends to, distributions to, or amounts set aside for or 3998
credited to the benefit of investors and allowed as a deduction 3999
in the computation of federal taxable income; 4000

(7) Deduct, to the extent not otherwise deducted or 4001
excluded in computing federal taxable income, any income derived 4002
from a transfer agreement or from the enterprise transferred 4003
under that agreement under section 4313.02 of the Revised Code; 4004

(8) Deduct exempt income to the extent not otherwise 4005
deducted or excluded in computing adjusted federal taxable 4006
income. 4007

(9) Deduct any net profit of a pass-through entity owned 4008
directly or indirectly by the taxpayer and included in the 4009
taxpayer's federal taxable income unless an affiliated group of 4010
corporations includes that net profit in the group's federal 4011
taxable income in accordance with division (E) (3) (b) of section 4012
718.06 of the Revised Code. 4013

(10) Add any loss incurred by a pass-through entity owned 4014
directly or indirectly by the taxpayer and included in the 4015
taxpayer's federal taxable income unless an affiliated group of 4016
corporations includes that loss in the group's federal taxable 4017
income in accordance with division (E) (3) (b) of section 718.06 4018
of the Revised Code. 4019

If the taxpayer is not a C corporation, is not a 4020
disregarded entity that has made the election described in 4021
division (L) (2) of this section, is not a publicly traded 4022
partnership that has made the election described in division (D) 4023
(5) of this section, and is not an individual, the taxpayer 4024
shall compute adjusted federal taxable income under this section 4025
as if the taxpayer were a C corporation, except guaranteed 4026

payments and other similar amounts paid or accrued to a partner, 4027
former partner, shareholder, former shareholder, member, or 4028
former member shall not be allowed as a deductible expense 4029
unless such payments are in consideration for the use of capital 4030
and treated as payment of interest under section 469 of the 4031
Internal Revenue Code or United States treasury regulations. 4032
Amounts paid or accrued to a qualified self-employed retirement 4033
plan with respect to a partner, former partner, shareholder, 4034
former shareholder, member, or former member of the taxpayer, 4035
amounts paid or accrued to or for health insurance for a 4036
partner, former partner, shareholder, former shareholder, 4037
member, or former member, and amounts paid or accrued to or for 4038
life insurance for a partner, former partner, shareholder, 4039
former shareholder, member, or former member shall not be 4040
allowed as a deduction. 4041

Nothing in division (E) of this section shall be construed 4042
as allowing the taxpayer to add or deduct any amount more than 4043
once or shall be construed as allowing any taxpayer to deduct 4044
any amount paid to or accrued for purposes of federal self- 4045
employment tax. 4046

(F) "Schedule C" means internal revenue service schedule C 4047
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4048
Code. 4049

(G) "Schedule E" means internal revenue service schedule E 4050
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4051
Code. 4052

(H) "Schedule F" means internal revenue service schedule F 4053
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4054
Code. 4055

(I) "Internal Revenue Code" has the same meaning as in 4056
section 5747.01 of the Revised Code. 4057

(J) "Resident" means an individual who is domiciled in the 4058
municipal corporation as determined under section 718.012 of the 4059
Revised Code. 4060

(K) "Nonresident" means an individual that is not a 4061
resident. 4062

(L) (1) "Taxpayer" means a person subject to a tax levied 4063
on income by a municipal corporation in accordance with this 4064
chapter. "Taxpayer" does not include a grantor trust or, except 4065
as provided in division (L) (2) (a) of this section, a disregarded 4066
entity. 4067

(2) (a) A single member limited liability company that is a 4068
disregarded entity for federal tax purposes may be a separate 4069
taxpayer from its single member in all Ohio municipal 4070
corporations in which it either filed as a separate taxpayer or 4071
did not file for its taxable year ending in 2003, if all of the 4072
following conditions are met: 4073

(i) The limited liability company's single member is also 4074
a limited liability company. 4075

(ii) The limited liability company and its single member 4076
were formed and doing business in one or more Ohio municipal 4077
corporations for at least five years before January 1, 2004. 4078

(iii) Not later than December 31, 2004, the limited 4079
liability company and its single member each made an election to 4080
be treated as a separate taxpayer under division (L) of this 4081
section as this section existed on December 31, 2004. 4082

(iv) The limited liability company was not formed for the 4083

purpose of evading or reducing Ohio municipal corporation income 4084
tax liability of the limited liability company or its single 4085
member. 4086

(v) The Ohio municipal corporation that was the primary 4087
place of business of the sole member of the limited liability 4088
company consented to the election. 4089

(b) For purposes of division (L) (2) (a) (v) of this section, 4090
a municipal corporation was the primary place of business of a 4091
limited liability company if, for the limited liability 4092
company's taxable year ending in 2003, its income tax liability 4093
was greater in that municipal corporation than in any other 4094
municipal corporation in Ohio, and that tax liability to that 4095
municipal corporation for its taxable year ending in 2003 was at 4096
least four hundred thousand dollars. 4097

(M) "Person" includes individuals, firms, companies, joint 4098
stock companies, business trusts, estates, trusts, partnerships, 4099
limited liability partnerships, limited liability companies, 4100
associations, C corporations, S corporations, governmental 4101
entities, and any other entity. 4102

(N) "Pass-through entity" means a partnership not treated 4103
as an association taxable as a C corporation for federal income 4104
tax purposes, a limited liability company not treated as an 4105
association taxable as a C corporation for federal income tax 4106
purposes, an S corporation, or any other class of entity from 4107
which the income or profits of the entity are given pass-through 4108
treatment for federal income tax purposes. "Pass-through entity" 4109
does not include a trust, estate, grantor of a grantor trust, or 4110
disregarded entity. 4111

(O) "S corporation" means a person that has made an 4112

election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(P) "Single member limited liability company" means a limited liability company that has one direct member.

(Q) "Limited liability company" means a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of another state.

(R) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1) Deduct the following amounts:

(a) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(b) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(c) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v) (2) (C) of the Internal Revenue Code if the compensation is included in wages and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.

(d) Any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the

municipal corporation has, by resolution or ordinance adopted 4141
before January 1, 2016, exempted the amount from withholding and 4142
tax. 4143

(e) Any amount included in wages that is exempt income. 4144

(2) Add the following amounts: 4145

(a) Any amount not included in wages solely because the 4146
employee was employed by the employer before April 1, 1986. 4147

(b) Any amount not included in wages because the amount 4148
arises from the sale, exchange, or other disposition of a stock 4149
option, the exercise of a stock option, or the sale, exchange, 4150
or other disposition of stock purchased under a stock option and 4151
the municipal corporation has not, by resolution or ordinance, 4152
exempted the amount from withholding and tax adopted before 4153
January 1, 2016. Division (R) (2) (b) of this section applies only 4154
to those amounts constituting ordinary income. 4155

(c) Any amount not included in wages if the amount is an 4156
amount described in section 401(k), 403(b), or 457 of the 4157
Internal Revenue Code. Division (R) (2) (c) of this section 4158
applies only to employee contributions and employee deferrals. 4159

(d) Any amount that is supplemental unemployment 4160
compensation benefits described in section 3402(o) (2) of the 4161
Internal Revenue Code and not included in wages. 4162

(e) Any amount received that is treated as self-employment 4163
income for federal tax purposes in accordance with section 4164
1402(a) (8) of the Internal Revenue Code. 4165

(f) Any amount not included in wages if all of the 4166
following apply: 4167

(i) For the taxable year the amount is employee 4168

compensation that is earned outside of the United States and 4169
that either is included in the taxpayer's gross income for 4170
federal income tax purposes or would have been included in the 4171
taxpayer's gross income for such purposes if the taxpayer did 4172
not elect to exclude the income under section 911 of the 4173
Internal Revenue Code; 4174

(ii) For no preceding taxable year did the amount 4175
constitute wages as defined in section 3121(a) of the Internal 4176
Revenue Code; 4177

(iii) For no succeeding taxable year will the amount 4178
constitute wages; and 4179

(iv) For any taxable year the amount has not otherwise 4180
been added to wages pursuant to either division (R) (2) of this 4181
section or section 718.03 of the Revised Code, as that section 4182
existed before the effective date of H.B. 5 of the 130th general 4183
assembly, March 23, 2015. 4184

(S) "Intangible income" means income of any of the 4185
following types: income yield, interest, capital gains, 4186
dividends, or other income arising from the ownership, sale, 4187
exchange, or other disposition of intangible property including, 4188
but not limited to, investments, deposits, money, or credits as 4189
those terms are defined in Chapter 5701. of the Revised Code, 4190
and patents, copyrights, trademarks, tradenames, investments in 4191
real estate investment trusts, investments in regulated 4192
investment companies, and appreciation on deferred compensation. 4193
"Intangible income" does not include prizes, awards, or other 4194
income associated with any lottery winnings, gambling winnings, 4195
or other similar games of chance. 4196

(T) "Taxable year" means the corresponding tax reporting 4197

period as prescribed for the taxpayer under the Internal Revenue Code. 4198
4199

(U) "Tax administrator" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following: 4200
4201
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4203

(1) A municipal corporation acting as the agent of another municipal corporation; 4204
4205

(2) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis; 4206
4207
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4209

(3) The central collection agency or the regional income tax agency or their successors in interest, or another entity organized to perform functions similar to those performed by the central collection agency and the regional income tax agency. 4210
4211
4212
4213

"Tax administrator" does not include the tax commissioner. 4214

(V) "Employer" means a person that is an employer for federal income tax purposes. 4215
4216

(W) "Employee" means an individual who is an employee for federal income tax purposes. 4217
4218

(X) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents. 4219
4220
4221
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(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December. 4224
4225

(Z) "Form 2106" means internal revenue service form 2106	4226
filed by a taxpayer pursuant to the Internal Revenue Code.	4227
(AA) "Municipal corporation" includes a joint economic	4228
development district or joint economic development zone that	4229
levies an income tax under section 715.691, 715.70, 715.71, or	4230
715.72 of the Revised Code.	4231
(BB) "Disregarded entity" means a single member limited	4232
liability company, a qualifying subchapter S subsidiary, or	4233
another entity if the company, subsidiary, or entity is a	4234
disregarded entity for federal income tax purposes.	4235
(CC) "Generic form" means an electronic or paper form that	4236
is not prescribed by a particular municipal corporation and that	4237
is designed for reporting taxes withheld by an employer, agent	4238
of an employer, or other payer, estimated municipal income	4239
taxes, or annual municipal income tax liability or for filing a	4240
refund claim.	4241
(DD) "Tax return preparer" means any individual described	4242
in section 7701(a)(36) of the Internal Revenue Code and 26	4243
C.F.R. 301.7701-15.	4244
(EE) "Ohio business gateway" means the online computer	4245
network system, created under section 125.30 of the Revised	4246
Code, that allows persons to electronically file business reply	4247
forms with state agencies and includes any successor electronic	4248
filing and payment system.	4249
(FF) "Local board of tax review" and "board of tax review"	4250
mean the entity created under section 718.11 of the Revised	4251
Code.	4252
(GG) "Net operating loss" means a loss incurred by a	4253
person in the operation of a trade or business. "Net operating	4254

loss" does not include unutilized losses resulting from basis 4255
limitations, at-risk limitations, or passive activity loss 4256
limitations. 4257

(HH) "Casino operator" and "casino facility" have the same 4258
meanings as in section 3772.01 of the Revised Code. 4259

(II) "Video lottery terminal" has the same meaning as in 4260
section 3770.21 of the Revised Code. 4261

(JJ) "Video lottery terminal sales agent" means a lottery 4262
sales agent licensed under Chapter 3770. of the Revised Code to 4263
conduct video lottery terminals on behalf of the state pursuant 4264
to section 3770.21 of the Revised Code. 4265

(KK) "Postal service" means the United States postal 4266
service. 4267

(LL) "Certified mail," "express mail," "United States 4268
mail," "postal service," and similar terms include any delivery 4269
service authorized pursuant to section 5703.056 of the Revised 4270
Code. 4271

(MM) "Postmark date," "date of postmark," and similar 4272
terms include the date recorded and marked in the manner 4273
described in division (B) (3) of section 5703.056 of the Revised 4274
Code. 4275

(NN) "Related member" means a person that, with respect to 4276
the taxpayer during all or any portion of the taxable year, is 4277
either a related entity, a component member as defined in 4278
section 1563(b) of the Internal Revenue Code, or a person to or 4279
from whom there is attribution of stock ownership in accordance 4280
with section 1563(e) of the Internal Revenue Code except, for 4281
purposes of determining whether a person is a related member 4282
under this division, "twenty per cent" shall be substituted for 4283

"5 percent" wherever "5 percent" appears in section 1563(e) of 4284
the Internal Revenue Code. 4285

(00) "Related entity" means any of the following: 4286

(1) An individual stockholder, or a member of the 4287
stockholder's family enumerated in section 318 of the Internal 4288
Revenue Code, if the stockholder and the members of the 4289
stockholder's family own directly, indirectly, beneficially, or 4290
constructively, in the aggregate, at least fifty per cent of the 4291
value of the taxpayer's outstanding stock; 4292

(2) A stockholder, or a stockholder's partnership, estate, 4293
trust, or corporation, if the stockholder and the stockholder's 4294
partnerships, estates, trusts, or corporations own directly, 4295
indirectly, beneficially, or constructively, in the aggregate, 4296
at least fifty per cent of the value of the taxpayer's 4297
outstanding stock; 4298

(3) A corporation, or a party related to the corporation 4299
in a manner that would require an attribution of stock from the 4300
corporation to the party or from the party to the corporation 4301
under division (00) (4) of this section, provided the taxpayer 4302
owns directly, indirectly, beneficially, or constructively, at 4303
least fifty per cent of the value of the corporation's 4304
outstanding stock; 4305

(4) The attribution rules described in section 318 of the 4306
Internal Revenue Code apply for the purpose of determining 4307
whether the ownership requirements in divisions (00) (1) to (3) 4308
of this section have been met. 4309

(PP) (1) "Assessment" means a written finding by the tax 4310
administrator that a person has underpaid municipal income tax, 4311
or owes penalty and interest, or any combination of tax, 4312

penalty, or interest, to the municipal corporation that 4313
commences the person's time limitation for making an appeal to 4314
the local board of tax review pursuant to section 718.11 of the 4315
Revised Code, and has "ASSESSMENT" written in all capital 4316
letters at the top of such finding. 4317

(2) "Assessment" does not include an informal notice 4318
denying a request for refund issued under division (B)(3) of 4319
section 718.19 of the Revised Code, a billing statement 4320
notifying a taxpayer of current or past-due balances owed to the 4321
municipal corporation, a tax administrator's request for 4322
additional information, a notification to the taxpayer of 4323
mathematical errors, or a tax administrator's other written 4324
correspondence to a person or taxpayer that does not meet the 4325
criteria prescribed by division (PP)(1) of this section. 4326

(QQ) "Taxpayers' rights and responsibilities" means the 4327
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 4328
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 4329
Revised Code and the responsibilities of taxpayers to file, 4330
report, withhold, remit, and pay municipal income tax and 4331
otherwise comply with Chapter 718. of the Revised Code and 4332
resolutions, ordinances, and rules adopted by a municipal 4333
corporation for the imposition and administration of a municipal 4334
income tax. 4335

(RR) "Qualified municipal corporation" means a municipal 4336
corporation that, by resolution or ordinance adopted on or 4337
before December 31, 2011, adopted Ohio adjusted gross income, as 4338
defined by section 5747.01 of the Revised Code, as the income 4339
subject to tax for the purposes of imposing a municipal income 4340
tax. 4341

(SS) (1) "Pre-2017 net operating loss carryforward" means 4342

any net operating loss incurred in a taxable year beginning 4343
before January 1, 2017, to the extent such loss was permitted, 4344
by a resolution or ordinance of the municipal corporation that 4345
was adopted by the municipal corporation before January 1, 2016, 4346
to be carried forward and utilized to offset income or net 4347
profit generated in such municipal corporation in future taxable 4348
years. 4349

(2) For the purpose of calculating municipal taxable 4350
income, any pre-2017 net operating loss carryforward may be 4351
carried forward to any taxable year, including taxable years 4352
beginning in 2017 or thereafter, for the number of taxable years 4353
provided in the resolution or ordinance or until fully utilized, 4354
whichever is earlier. 4355

(TT) "Small employer" means any employer that had total 4356
revenue of less than five hundred thousand dollars during the 4357
preceding taxable year. For purposes of this division, "total 4358
revenue" means receipts of any type or kind, including, but not 4359
limited to, sales receipts; payments; rents; profits; gains, 4360
dividends, and other investment income; compensation; 4361
commissions; premiums; money; property; grants; contributions; 4362
donations; gifts; program service revenue; patient service 4363
revenue; premiums; fees, including premium fees and service 4364
fees; tuition payments; unrelated business revenue; 4365
reimbursements; any type of payment from a governmental unit, 4366
including grants and other allocations; and any other similar 4367
receipts reported for federal income tax purposes or under 4368
generally accepted accounting principles. "Small employer" does 4369
not include the federal government; any state government, 4370
including any state agency or instrumentality; any political 4371
subdivision; or any entity treated as a government for financial 4372
accounting and reporting purposes. 4373

(UU) "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person for the purpose of determining liability for a municipal income tax.

(VV) "Publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(WW) "Tax commissioner" means the tax commissioner appointed under section 121.03 of the Revised Code.

(XX) "Out-of-state disaster business," "qualifying solicitation," "qualifying employee," "disaster work," "critical infrastructure," and "disaster response period" have the same meanings as in section 5703.94 of the Revised Code.

Sec. 718.021. (A) As used in this section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax

imposed on the entire amount of compensation the payment of 4403
which is deferred pursuant to a nonqualified deferred 4404
compensation plan, then the "qualifying loss" is the product of 4405
the amount resulting from the calculation described in division 4406
(A) (2) (a) of this section computed without regard to division 4407
(A) (2) (b) of this section and a fraction the numerator of which 4408
is the portion of such compensation on which the taxpayer has 4409
paid income tax to one or more municipal corporations and the 4410
denominator of which is the total amount of compensation the 4411
payment of which is deferred pursuant to a nonqualified deferred 4412
compensation plan. 4413

(c) With respect to a nonqualified deferred compensation 4414
plan, the taxpayer sustains a qualifying loss only in the 4415
taxable year in which the taxpayer receives the final 4416
distribution of money and property pursuant to that nonqualified 4417
deferred compensation plan. 4418

(3) "Qualifying tax rate" means the applicable tax rate 4419
for the taxable year for ~~the~~ which the taxpayer paid income tax 4420
to a municipal corporation with respect to any portion of the 4421
total amount of compensation the payment of which is deferred 4422
pursuant to a nonqualified deferred compensation plan. If 4423
different tax rates applied for different taxable years, then 4424
the "qualifying tax rate" is a weighted average of those 4425
different tax rates. The weighted average shall be based upon 4426
the tax paid to the municipal corporation each year with respect 4427
to the nonqualified deferred compensation plan. 4428

(B) (1) Except as provided in division (D) of this section, 4429
a refundable credit shall be allowed against the income tax 4430
imposed by a municipal corporation for each qualifying loss 4431
sustained by a taxpayer during the taxable year. The amount of 4432

the credit shall be equal to the product of the qualifying loss 4433
and the qualifying tax rate. 4434

(2) A taxpayer shall claim the credit allowed under this 4435
section from each municipal corporation to which the taxpayer 4436
paid municipal income tax with respect to the nonqualified 4437
deferred compensation plan in one or more taxable years. 4438

(3) If a taxpayer has paid tax to more than one municipal 4439
corporation with respect to the nonqualified deferred 4440
compensation plan, the amount of the credit that a taxpayer may 4441
claim from each municipal corporation shall be calculated on the 4442
basis of each municipal corporation's proportionate share of the 4443
total municipal corporation income tax paid by the taxpayer to 4444
all municipal corporations with respect to the nonqualified 4445
deferred compensation plan. 4446

(4) In no case shall the amount of the credit allowed 4447
under this section exceed the cumulative income tax that a 4448
taxpayer has paid to a municipal corporation for all taxable 4449
years with respect to the nonqualified deferred compensation 4450
plan. 4451

(C) (1) For purposes of this section, municipal corporation 4452
income tax that has been withheld with respect to a nonqualified 4453
deferred compensation plan shall be considered to have been paid 4454
by the taxpayer with respect to the nonqualified deferred 4455
compensation plan. 4456

(2) Any municipal income tax that has been refunded or 4457
otherwise credited for the benefit of the taxpayer with respect 4458
to a nonqualified deferred compensation plan shall not be 4459
considered to have been paid to the municipal corporation by the 4460
taxpayer. 4461

(D) The credit allowed under this section is allowed only 4462
to the extent the taxpayer's qualifying loss is attributable to: 4463

(1) The insolvency or bankruptcy of the employer who had 4464
established the nonqualified deferred compensation plan; or 4465

(2) The employee's failure or inability to satisfy all of 4466
the employer's terms and conditions necessary to receive the 4467
nonqualified deferred compensation. 4468

Sec. 929.01. As used in this chapter: 4469

(A) "Agricultural production" means commercial 4470
aquaculture, algaculture meaning the farming of algae, 4471
apiculture, animal husbandry, or poultry husbandry; the 4472
production for a commercial purpose of timber, field crops, 4473
tobacco, fruits, vegetables, nursery stock, ornamental shrubs, 4474
ornamental trees, flowers, or sod; the growth of timber for a 4475
noncommercial purpose if the land on which the timber is grown 4476
is contiguous to or part of a parcel of land under common 4477
ownership that is otherwise devoted exclusively to agricultural 4478
use; or any combination of such husbandry, production, or 4479
growth; and includes the processing, drying, storage, and 4480
marketing of agricultural products when those activities are 4481
conducted in conjunction with such husbandry, production, or 4482
growth. 4483

"Agricultural production" includes conservation practices, 4484
provided that the tracts, lots, or parcels of land or portions 4485
thereof that are used for conservation practices comprise not 4486
more than twenty-five per cent of tracts, lots, or parcels of 4487
land that are otherwise devoted exclusively to agricultural use 4488
and for which an application is filed under section 929.02 of 4489
the Revised Code. 4490

(B) "Withdrawal from an agricultural district" includes 4491
the explicit removal of land from an agricultural district, 4492
conversion of land in an agricultural district to use for 4493
purposes other than agricultural production, and withdrawal of 4494
land from a land retirement or conservation program to use for 4495
purposes other than agricultural production. Withdrawal from an 4496
agricultural district does not include land described in 4497
division (A) ~~(4)~~ (3) of section 5713.30 of the Revised Code. 4498

(C) "Conservation practice" has the same meaning as in 4499
section 5713.30 of the Revised Code. 4500

Sec. 1545.041. (A) Any township park district created 4501
pursuant to section 511.18 of the Revised Code that includes 4502
park land located outside the township in which the park 4503
district was established may be converted under the procedures 4504
provided in this section into a park district to be operated and 4505
maintained as provided for in this chapter, provided that there 4506
is no existing park district created under section 1545.04 of 4507
the Revised Code in the county in which the township park 4508
district is located. The proposed park district shall include 4509
within its boundary all townships and municipal corporations in 4510
which lands owned by the township park district seeking 4511
conversion are located, and may include any other townships and 4512
municipal corporations in the county in which the township park 4513
district is located. 4514

(B) Conversion of a township park district into a park 4515
district operated and maintained under this chapter shall be 4516
initiated by a resolution adopted by the board of park 4517
commissioners of the park district. Any resolution initiating a 4518
conversion shall include the following: 4519

(1) The name of the township park district seeking 4520

conversion; 4521

(2) The name of the proposed park district; 4522

(3) An accurate description of the territory to be 4523
included in the proposed district; 4524

(4) An accurate map or plat of the proposed park district. 4525
The resolution may also include a proposed tax levy for the 4526
operation and maintenance of the proposed park district. If such 4527
a tax levy is proposed, the resolution shall specify the annual 4528
rate of the tax, expressed in dollars and cents for each one 4529
hundred dollars of valuation and in mills for each dollar of 4530
valuation, and shall specify the number of consecutive years the 4531
levy will be in effect. The annual rate of such a tax may not be 4532
higher than the total combined millage of all levies then in 4533
effect for the benefit of the township park district named in 4534
the resolution. 4535

(C) Upon adoption of the resolution provided for in 4536
division (B) of this section, the board of park commissioners of 4537
the township park district seeking conversion under this section 4538
shall certify the resolution to the board of elections of the 4539
county in which the park district is located no later than four 4540
p.m. of the seventy-fifth day before the day of the election at 4541
which the question will be voted upon. Upon certification of the 4542
resolution to the board, the board of elections shall make the 4543
necessary arrangements to submit the question of conversion of 4544
the township park into a park district operated and maintained 4545
under Chapter 1545. of the Revised Code, to the electors 4546
qualified to vote at the next primary or general election who 4547
reside in the territory of the proposed park district. The 4548
question shall provide for a tax levy if such a levy is 4549
specified in the resolution. 4550

(D) The ballot submitted to the electors as provided in 4551
division (C) of this section shall contain the following 4552
language: 4553

"Shall the (name of the township park 4554
district seeking conversion) be converted into a park district 4555
to be operated and maintained under Chapter 1545. of the Revised 4556
Code under the name of (name of proposed park 4557
district), which park district shall include the following 4558
townships and municipal corporations: 4559

(Name townships and municipal corporations) 4560

Approval of the proposed conversion will result in the 4561
termination of all existing tax levies voted for the benefit 4562
of (name of the township park district sought to 4563
be converted) and in the levy of a new tax for the operation and 4564
maintenance of (name of proposed park district) 4565
at a rate not exceeding (number of mills) mills for 4566
each one dollar of valuation, which is (rate expressed 4567
in dollars and cents) for each one hundred dollars of valuation, 4568
for (number of years the millage is to be imposed) years, 4569
commencing on the (year) tax duplicate. 4570

| For the proposed conversion
| Against the proposed conversion

"

(E) If the proposed conversion is approved by at least a 4575
majority of the electors voting on the proposal, the township 4576
park district that seeks conversion shall become a park district 4577
subject to Chapter 1545. of the Revised Code effective the first 4578
day of January following approval by the voters. The park 4579

district shall have the name specified in the resolution, and 4580
effective the first day of January following approval by the 4581
voters, the following shall occur: 4582

(1) The indebtedness of the former township park district 4583
shall be assumed by the new park district; 4584

(2) All rights, assets, properties, and other interests of 4585
the former township park district shall become vested in the new 4586
park district, including the rights to any tax revenues 4587
previously vested in the former township park district; 4588
provided, that all tax levies in excess of the ten mill 4589
limitation approved for the benefit of the former township park 4590
district shall be removed from the tax lists after the February 4591
settlement next succeeding the conversion. Any tax levy approved 4592
in connection with the conversion shall be certified as provided 4593
in section 5705.25 of the Revised Code. 4594

(3) The members of the board of park commissioners of the 4595
former township park district shall be the members ~~of the~~ 4596
~~members~~ of the board of park commissioners of the new park 4597
district, with all the same powers and duties as if appointed 4598
under section 1545.05 of the Revised Code. The term of each such 4599
commissioner shall expire on the first day of January of the 4600
year following the year in which his term would have expired 4601
under section 511.19 of the Revised Code. Thereafter, 4602
commissioners shall be appointed pursuant to section 1545.05 of 4603
the Revised Code. 4604

Sec. 1545.21. The board of park commissioners, by 4605
resolution, may submit to the electors of the park district the 4606
question of levying taxes for the use of the district. The 4607
resolution shall declare the necessity of levying such taxes, 4608
shall specify the purpose for which such taxes shall be used, 4609

the annual rate proposed, and the number of consecutive years 4610
the rate shall be levied. Such resolution shall be forthwith 4611
certified to the board of elections in each county in which any 4612
part of such district is located, not later than the ninetieth 4613
day before the day of the election, and the question of the levy 4614
of taxes as provided in such resolution shall be submitted to 4615
the electors of the district at a special election to be held on 4616
whichever of the following occurs first: 4617

(A) The day of the next general election; 4618

(B) The first Tuesday after the first Monday in May in any 4619
calendar year, except that if a presidential primary election is 4620
held in that calendar year, then the day of that election. ~~The~~ 4621

The ballot shall set forth the purpose for which the taxes 4622
shall be levied, the annual rate of levy, and the number of 4623
years of such levy. If the tax is to be placed on the current 4624
tax list, the form of the ballot shall state that the tax will 4625
be levied in the current tax year and shall indicate the first 4626
calendar year the tax will be due. If the resolution of the 4627
board of park commissioners provides that an existing levy will 4628
be canceled upon the passage of the new levy, the ballot may 4629
include a statement that: "an existing levy of ... mills 4630
(stating the original levy millage), having ... years remaining, 4631
will be canceled and replaced upon the passage of this levy." In 4632
such case, the ballot may refer to the new levy as a 4633
"replacement levy" if the new millage does not exceed the 4634
original millage of the levy being canceled or as a "replacement 4635
and additional levy" if the new millage exceeds the original 4636
millage of the levy being canceled. If a majority of the 4637
electors voting upon the question of such levy vote in favor 4638
thereof, such taxes shall be levied and shall be in addition to 4639

the taxes authorized by section 1545.20 of the Revised Code, and 4640
all other taxes authorized by law. The rate submitted to the 4641
electors at any one time shall not exceed two mills annually 4642
upon each dollar of valuation unless the purpose of the levy 4643
includes providing operating revenues for one of Ohio's major 4644
metropolitan zoos, as defined in section 4503.74 of the Revised 4645
Code, in which case the rate shall not exceed three mills 4646
annually upon each dollar of valuation. When a tax levy has been 4647
authorized as provided in this section or in section 1545.041 of 4648
the Revised Code, the board of park commissioners may issue 4649
bonds pursuant to section 133.24 of the Revised Code in 4650
anticipation of the collection of such levy, provided that such 4651
bonds shall be issued only for the purpose of acquiring and 4652
improving lands. Such levy, when collected, shall be applied in 4653
payment of the bonds so issued and the interest thereon. The 4654
amount of bonds so issued and outstanding at any time shall not 4655
exceed one per cent of the total tax valuation in such district. 4656
Such bonds shall bear interest at a rate not to exceed the rate 4657
determined as provided in section 9.95 of the Revised Code. 4658

Sec. 1711.15. In any county in which there is a duly 4659
organized county agricultural society, the board of county 4660
commissioners or the county agricultural society itself may 4661
purchase or lease, for a term of not less than twenty years, 4662
real estate on which to hold fairs under the management and 4663
control of the county agricultural society, and may erect 4664
suitable buildings on the real estate and otherwise improve it. 4665

In counties in which there is a county agricultural 4666
society that has purchased, or leased for a term of not less 4667
than twenty years, real estate as a site on which to hold fairs, 4668
or if the title to the site is vested in fee in the county, the 4669
board of county commissioners may erect or repair buildings or 4670

otherwise improve the site and pay the rental of it, or 4671
contribute to or pay any other form of indebtedness of the 4672
society, if the director of agriculture has certified to the 4673
board that the county agricultural society is complying with all 4674
laws and rules governing the operation of county agricultural 4675
societies. The board may appropriate from the county's general 4676
fund or permanent improvement fund, and may appropriate revenue 4677
from a tax levied under division ~~(L)~~(T) of section 5739.09 of 4678
the Revised Code, any amount that it considers necessary for any 4679
of those purposes, provided that an appropriation of revenue 4680
from that tax may be expended only for the purposes provided in 4681
the resolution levying that tax. 4682

Sec. 1711.16. When the control and management of a 4683
fairground is in a county agricultural society, and the board of 4684
county commissioners has appropriated an amount for the aid of 4685
the society as provided in section 1711.15 of the Revised Code, 4686
the society, with the consent of the board, may contract for the 4687
erection or repair of buildings or otherwise improve the 4688
fairground, to the extent that the payment for the improvement 4689
is provided by the board. 4690

When the appropriation is made by the board, the county 4691
auditor shall place the proceeds in a special fund, designated 4692
the "county agricultural society fund," indicating the purpose 4693
for which it is available, provided that an appropriation of 4694
revenue from a tax levied by the board under division ~~(L)~~(T) of 4695
section 5739.09 of the Revised Code may be expended only for the 4696
purposes provided in the resolution levying that tax. On 4697
application of the treasurer of the society, the auditor shall 4698
issue an order for the amount of the appropriation to the 4699
treasurer of the society, if the society has secured the 4700
certificate required under section 1711.05 of the Revised Code, 4701

on the treasurer's filing with the auditor a bond in double the 4702
amount collected, with good and sufficient sureties approved by 4703
the auditor, conditioned for the satisfactory paying over and 4704
accounting of the funds for the purposes for which they were 4705
provided. The funds shall remain in the special fund in which 4706
they are placed by the auditor until they are applied for by the 4707
treasurer of the society and the bond is given, or until they 4708
are expended by the board for the purposes for which the fund 4709
was created. If the society ceases to exist or releases the fund 4710
as not required for the purposes for which the fund was created, 4711
the board may by resolution transfer the fund to the general 4712
fund of the county. 4713

Sec. 3316.03. (A) The existence of a fiscal watch shall be 4714
declared by the auditor of state. The auditor of state may make 4715
a determination on the auditor of state's initiative, or upon 4716
receipt of a written request for such a determination, which may 4717
be filed by the governor, the superintendent of public 4718
instruction, or a majority of the members of the board of 4719
education of the school district. 4720

(1) The auditor of state shall declare a school district 4721
to be in a state of fiscal watch if the auditor of state 4722
determines that both of the following conditions are satisfied 4723
with respect to the school district: 4724

(a) An operating deficit has been certified for the 4725
current fiscal year by the auditor of state, and the certified 4726
operating deficit exceeds eight per cent of the school 4727
district's general fund revenue for the preceding fiscal year; 4728

(b) A majority of the voting electors have not voted in 4729
favor of levying a tax under section 5705.194, 5705.199, or 4730
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4731

state expects will raise enough additional revenue in the next 4732
succeeding fiscal year that division (A) (1) (a) of this section 4733
will not apply to the district in such next succeeding fiscal 4734
year. 4735

(2) The auditor of state shall declare a school district 4736
to be in a state of fiscal watch if the auditor of state 4737
determines that the school district has outstanding securities 4738
issued under division (A) (4) of section 3316.06 of the Revised 4739
Code, and its financial planning and supervision commission has 4740
been terminated under section 3316.16 of the Revised Code. 4741

(3) The auditor of state shall declare a school district 4742
to be in a state of fiscal watch if both of the following 4743
conditions are satisfied: 4744

(a) The superintendent of public instruction has reported 4745
to the auditor of state that the superintendent has declared the 4746
district under section 3316.031 of the Revised Code to be under 4747
a fiscal caution, has found that the district has not acted 4748
reasonably to eliminate or correct practices or conditions that 4749
prompted the declaration, and has determined the declaration of 4750
a state of fiscal watch necessary to prevent further fiscal 4751
decline; 4752

(b) The auditor of state determines that the decision of 4753
the superintendent is reasonable. 4754

If the auditor of state determines that the decision of 4755
the superintendent is not reasonable, the auditor of state shall 4756
provide the superintendent with a written explanation of that 4757
determination. 4758

(4) The auditor of state may declare a school district to 4759
be in a state of fiscal watch if all of the following conditions 4760

are satisfied: 4761

(a) An operating deficit has been certified for the 4762
current fiscal year by the auditor of state, and the certified 4763
operating deficit exceeds two per cent, but does not exceed 4764
eight per cent, of the school district's general fund revenue 4765
for the preceding fiscal year; 4766

(b) A majority of the voting electors have not voted in 4767
favor of levying a tax under section 5705.194, 5705.199, or 4768
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4769
state expects will raise enough additional revenue in the next 4770
succeeding fiscal year that division (A) (4) (a) of this section 4771
will not apply to the district in the next succeeding fiscal 4772
year; 4773

(c) The auditor of state determines that there is no 4774
reasonable cause for the deficit or that the declaration of 4775
fiscal watch is necessary to prevent further fiscal decline in 4776
the district. 4777

(B) (1) The auditor of state shall issue an order declaring 4778
a school district to be in a state of fiscal emergency if the 4779
auditor of state determines that both of the following 4780
conditions are satisfied with respect to the school district: 4781

(a) An operating deficit has been certified for the 4782
current fiscal year by the auditor of state, and the certified 4783
operating deficit exceeds fifteen per cent of the school 4784
district's general fund revenue for the preceding fiscal year. 4785
~~In determining the amount of an operating deficit under division~~ 4786
~~(B) (1) (a) of this section, the auditor of state shall credit~~ 4787
~~toward the amount of that deficit only the amount that may be~~ 4788
~~borrowed from the spending reserve balance as determined under~~ 4789

~~section 133.301 and division (F) of section 5705.29 of the~~ 4790
~~Revised Code.~~ 4791

(b) A majority of the voting electors have not voted in 4792
favor of levying a tax under section 5705.194, 5705.199, or 4793
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4794
state expects will raise enough additional revenue in the next 4795
succeeding fiscal year that division (B) (1) (a) of this section 4796
will not apply to the district in such next succeeding fiscal 4797
year. 4798

(2) The auditor of state shall issue an order declaring a 4799
school district to be in a state of fiscal emergency if the 4800
school district board fails, pursuant to section 3316.04 of the 4801
Revised Code, to submit a plan acceptable to the state 4802
superintendent of public instruction within one hundred twenty 4803
days of the auditor of state's declaration under division (A) of 4804
this section or an updated plan when one is required by division 4805
(C) of section 3316.04 of the Revised Code; 4806

(3) The auditor of state shall issue an order declaring a 4807
school district to be in a state of fiscal emergency if both of 4808
the following conditions are satisfied: 4809

(a) The superintendent of public instruction has reported 4810
to the auditor of state that the district is not materially 4811
complying with the provisions of an original or updated plan as 4812
approved by the state superintendent under section 3316.04 of 4813
the Revised Code, and that the state superintendent has 4814
determined the declaration of a state of fiscal emergency 4815
necessary to prevent further fiscal decline; 4816

(b) The auditor of state finds that the determination of 4817
the superintendent is reasonable. 4818

If the auditor of state determines that the decision of the superintendent is not reasonable, the auditor of state shall provide the superintendent a written explanation of that determination.

(4) The auditor of state shall issue an order declaring a school district to be in a state of fiscal emergency if a declaration of fiscal emergency is required by division (D) of section 3316.04 of the Revised Code.

(5) The auditor of state may issue an order declaring a school district to be in a state of fiscal emergency if all of the following conditions are satisfied:

(a) An operating deficit has been certified for the current fiscal year by the auditor of state, and the certified operating deficit exceeds ten per cent, but does not exceed fifteen per cent, of the school district's general fund revenue for the preceding fiscal year;

(b) A majority of the voting electors have not voted in favor of levying a tax under section 5705.194, 5705.199, or 5705.21 or Chapter 5748. of the Revised Code that the auditor of state expects will raise enough additional revenue in the next succeeding fiscal year that division (B) (5) (a) of this section will not apply to the district in the next succeeding fiscal year;

(c) The auditor of state determines that a declaration of fiscal emergency is necessary to correct the district's fiscal problems and to prevent further fiscal decline.

(C) In making the determinations under this section, the auditor of state may use financial reports required under section 117.43 of the Revised Code; tax budgets, certificates of

estimated resources and amendments thereof, annual appropriating 4848
measures and spending plans, and any other documents or 4849
information prepared pursuant to Chapter 5705. of the Revised 4850
Code; and any other documents, records, or information available 4851
to the auditor of state that indicate the conditions described 4852
in divisions (A) and (B) of this section. 4853

(D) The auditor of state shall certify the action taken 4854
under division (A) or (B) of this section to the board of 4855
education of the school district, the director of budget and 4856
management, the mayor or county auditor who could be required to 4857
act pursuant to division (B)(1) of section 3316.05 of the 4858
Revised Code, and to the superintendent of public instruction. 4859

(E) A determination by the auditor of state under this 4860
section that a fiscal emergency condition does not exist is 4861
final and conclusive and not appealable. A determination by the 4862
auditor of state under this section that a fiscal emergency 4863
exists is final, except that the board of education of the 4864
school district affected by such a determination may appeal the 4865
determination of the existence of a fiscal emergency condition 4866
to the court of appeals having territorial jurisdiction over the 4867
school district. The appeal shall be heard expeditiously by the 4868
court of appeals and for good cause shown shall take precedence 4869
over all other civil matters except earlier matters of the same 4870
character. Notice of such appeal must be filed with the auditor 4871
of state and such court within thirty days after certification 4872
by the auditor of state to the board of education of the school 4873
district provided for in division (D) of this section. In such 4874
appeal, determinations of the auditor of state shall be presumed 4875
to be valid and the board of education shall have the burden of 4876
proving, by clear and convincing evidence, that each of the 4877
determinations made by the auditor of state as to the existence 4878

of a fiscal emergency condition under this section was in error. 4879
If the board of education fails, upon presentation of its case, 4880
to prove by clear and convincing evidence that each such 4881
determination by the auditor of state was in error, the court 4882
shall dismiss the appeal. The board of education and the auditor 4883
of state may introduce any evidence relevant to the existence or 4884
nonexistence of such fiscal emergency conditions. The pendency 4885
of any such appeal shall not affect or impede the operations of 4886
this chapter; no restraining order, temporary injunction, or 4887
other similar restraint upon actions consistent with this 4888
chapter shall be imposed by the court or any court pending 4889
determination of such appeal; and all things may be done under 4890
this chapter that may be done regardless of the pendency of any 4891
such appeal. Any action taken or contract executed pursuant to 4892
this chapter during the pendency of such appeal is valid and 4893
enforceable among all parties, notwithstanding the decision in 4894
such appeal. If the court of appeals reverses the determination 4895
of the existence of a fiscal emergency condition by the auditor 4896
of state, the determination no longer has any effect, and any 4897
procedures undertaken as a result of the determination shall be 4898
terminated. 4899

Sec. 3316.06. (A) Within one hundred twenty days after the 4900
first meeting of a school district financial planning and 4901
supervision commission, the commission shall adopt a financial 4902
recovery plan regarding the school district for which the 4903
commission was created. During the formulation of the plan, the 4904
commission shall seek appropriate input from the school district 4905
board and from the community. This plan shall contain the 4906
following: 4907

(1) Actions to be taken to: 4908

(a) Eliminate all fiscal emergency conditions declared to exist pursuant to division (B) of section 3316.03 of the Revised Code; 4909
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4911

(b) Satisfy any judgments, past-due accounts payable, and all past-due and payable payroll and fringe benefits; 4912
4913

(c) Eliminate the deficits in all deficit funds, except that any prior year deficits in the capital and maintenance fund established pursuant to section 3315.18 of the Revised Code shall be forgiven; 4914
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(d) Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds, or missing from the special funds and not accounted for, if any; 4918
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4920
4921
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(e) Balance the budget, avoid future deficits in any funds, and maintain on a current basis payments of payroll, fringe benefits, and all accounts; 4924
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4926

(f) Avoid any fiscal emergency condition in the future; 4927

(g) Restore the ability of the school district to market long-term general obligation bonds under provisions of law applicable to school districts generally. 4928
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(2) The management structure that will enable the school district to take the actions enumerated in division (A) (1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that 4931
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period. The commission may elect to assume any of the powers and 4938
duties of the school board it considers necessary, including all 4939
powers related to personnel, curriculum, and legal issues in 4940
order to successfully implement the actions described in 4941
division (A) (1) of this section. 4942

(3) The target dates for the commencement, progress upon, 4943
and completion of the actions enumerated in division (A) (1) of 4944
this section and a reasonable period of time expected to be 4945
required to implement the plan. The commission shall prepare a 4946
reasonable time schedule for progress toward and achievement of 4947
the requirements for the plan, and the plan shall be consistent 4948
with that time schedule. 4949

(4) The amount and purpose of any issue of debt 4950
obligations that will be issued, together with assurances that 4951
any such debt obligations that will be issued will not exceed 4952
debt limits supported by appropriate certifications by the 4953
fiscal officer of the school district and the county auditor. 4954
~~Debt obligations issued pursuant to section 133.301 of the~~ 4955
~~Revised Code shall include assurances that such debt shall be in~~ 4956
~~an amount not to exceed the amount certified under division (B)~~ 4957
~~of such section.~~ If the commission considers it necessary in 4958
order to maintain or improve educational opportunities of pupils 4959
in the school district, the plan may include a proposal to 4960
restructure or refinance outstanding debt obligations incurred 4961
by the board under section 3313.483 of the Revised Code 4962
contingent upon the approval, during the period of the fiscal 4963
emergency, by district voters of a tax levied under section 4964
718.09, 718.10, 5705.194, 5705.21, 5748.02, 5748.08, or 5748.09 4965
of the Revised Code that is not a renewal or replacement levy, 4966
or a levy under section 5705.199 of the Revised Code, and that 4967
will provide new operating revenue. Notwithstanding any 4968

provision of Chapter 133. or sections 3313.483 to 3313.4810 of 4969
the Revised Code, following the required approval of the 4970
district voters and with the approval of the commission, the 4971
school district may issue securities to evidence the 4972
restructuring or refinancing. Those securities may extend the 4973
original period for repayment, not to exceed ten years, and may 4974
alter the frequency and amount of repayments, interest or other 4975
financing charges, and other terms of agreements under which the 4976
debt originally was contracted, at the discretion of the 4977
commission, provided that any loans received pursuant to section 4978
3313.483 of the Revised Code shall be paid from funds the 4979
district would otherwise receive under Chapter 3317. of the 4980
Revised Code, as required under division (E) (3) of section 4981
3313.483 of the Revised Code. The securities issued for the 4982
purpose of restructuring or refinancing the debt shall be repaid 4983
in equal payments and at equal intervals over the term of the 4984
debt and are not eligible to be included in any subsequent 4985
proposal for the purpose of restructuring or refinancing debt 4986
under this section. 4987

(5) An evaluation of the feasibility of entering into 4988
shared services agreements with other political subdivisions for 4989
the joint exercise of any power, performance of any function, or 4990
rendering of any service, if so authorized by statute. 4991

(B) Any financial recovery plan may be amended subsequent 4992
to its adoption. Each financial recovery plan shall be updated 4993
annually. 4994

(C) Each school district financial planning and 4995
supervision commission shall submit the financial recovery plan 4996
it adopts or updates under this section to the state 4997
superintendent of public instruction for approval immediately 4998

following its adoption or updating. The state superintendent 4999
shall evaluate the plan and either approve or disapprove it 5000
within thirty calendar days from the date of its submission. If 5001
the plan is disapproved, the state superintendent shall 5002
recommend modifications that will render it acceptable. No 5003
financial planning and supervision commission shall implement a 5004
financial recovery plan that is adopted or updated on or after 5005
April 10, 2001, unless the state superintendent has approved it. 5006

Sec. 3317.01. As used in this section, "school district," 5007
unless otherwise specified, means any city, local, exempted 5008
village, joint vocational, or cooperative education school 5009
district and any educational service center. 5010

This chapter shall be administered by the state board of 5011
education. The superintendent of public instruction shall 5012
calculate the amounts payable to each school district and shall 5013
certify the amounts payable to each eligible district to the 5014
treasurer of the district as provided by this chapter. ~~As soon~~ 5015
~~as possible after such amounts are calculated, the~~ 5016
~~superintendent shall certify to the treasurer of each school~~ 5017
~~district the district's adjusted charge-off increase, as defined~~ 5018
~~in section 5705.211 of the Revised Code.~~ Certification of moneys 5019
pursuant to this section shall include the amounts payable to 5020
each school building, at a frequency determined by the 5021
superintendent, for each subgroup of students, as defined in 5022
section 3317.40 of the Revised Code, receiving services, 5023
provided for by state funding, from the district or school. No 5024
moneys shall be distributed pursuant to this chapter without the 5025
approval of the controlling board. 5026

The state board of education shall, in accordance with 5027
appropriations made by the general assembly, meet the financial 5028

obligations of this chapter. 5029

Moneys distributed to school districts pursuant to this 5030
chapter shall be calculated based on the annual enrollment 5031
calculated from the three reports required under sections 5032
3317.03 and 3317.036 of the Revised Code and paid on a fiscal 5033
year basis, beginning with the first day of July and extending 5034
through the thirtieth day of June. In any given fiscal year, 5035
prior to school districts submitting the first report required 5036
under section 3317.03 of the Revised Code, enrollment for the 5037
districts shall be calculated based on the third report 5038
submitted by the districts for the previous fiscal year. The 5039
moneys appropriated for each fiscal year shall be distributed 5040
periodically to each school district unless otherwise provided 5041
for. The state board, in June of each year, shall submit to the 5042
controlling board the state board's year-end distributions 5043
pursuant to this chapter. 5044

Except as otherwise provided, payments under this chapter 5045
shall be made only to those school districts in which: 5046

(A) The school district, except for any educational 5047
service center and any joint vocational or cooperative education 5048
school district, levies for current operating expenses at least 5049
twenty mills. Levies for joint vocational or cooperative 5050
education school districts or county school financing districts, 5051
limited to or to the extent apportioned to current expenses, 5052
shall be included in this qualification requirement. School 5053
district income tax levies under Chapter 5748. of the Revised 5054
Code, limited to or to the extent apportioned to current 5055
operating expenses, shall be included in this qualification 5056
requirement to the extent determined by the tax commissioner 5057
under division (C) of section 3317.021 of the Revised Code. 5058

(B) The school year next preceding the fiscal year for 5059
which such payments are authorized meets the requirement of 5060
section 3313.48 of the Revised Code, with regard to the minimum 5061
number of hours school must be open for instruction with pupils 5062
in attendance, for individualized parent-teacher conference and 5063
reporting periods, and for professional meetings of teachers. 5064

A school district shall not be considered to have failed 5065
to comply with this division because schools were open for 5066
instruction but either twelfth grade students were excused from 5067
attendance for up to the equivalent of three school days or only 5068
a portion of the kindergarten students were in attendance for up 5069
to the equivalent of three school days in order to allow for the 5070
gradual orientation to school of such students. 5071

A board of education or governing board of an educational 5072
service center which has not conformed with other law and the 5073
rules pursuant thereto, shall not participate in the 5074
distribution of funds authorized by this chapter, except for 5075
good and sufficient reason established to the satisfaction of 5076
the state board of education and the state controlling board. 5077

All funds allocated to school districts under this 5078
chapter, except those specifically allocated for other purposes, 5079
shall be used to pay current operating expenses only. 5080

Sec. 4301.20. This chapter and Chapter 4303. of the 5081
Revised Code do not prevent the following: 5082

(A) The storage of intoxicating liquor in bonded 5083
warehouses, established in accordance with the acts of congress 5084
and under the regulation of the United States, located in this 5085
state, or the transportation of intoxicating liquor to or from 5086
bonded warehouses of the United States wherever located; 5087

(B) A bona fide resident of this state who is the owner of 5088
a warehouse receipt from obtaining or transporting to the 5089
resident's residence for the resident's own consumption and not 5090
for resale spirituous liquor stored in a government bonded 5091
warehouse in this state or in another state prior to December 5092
1933, subject to such terms as are prescribed by the division of 5093
liquor control; 5094

(C) The manufacture of cider from fruit for the purpose of 5095
making vinegar, and nonintoxicating cider and fruit juices for 5096
use and sale; 5097

(D) A licensed physician or dentist from administering or 5098
dispensing intoxicating liquor or alcohol to a patient in good 5099
faith in the actual course of the practice of the physician's or 5100
dentist's profession; 5101

(E) The sale of alcohol to physicians, dentists, 5102
druggists, veterinary surgeons, manufacturers, hospitals, 5103
infirmaries, or medical or educational institutions using the 5104
alcohol for medicinal, mechanical, chemical, or scientific 5105
purposes; 5106

(F) The sale, gift, or keeping for sale by druggists and 5107
others of any of the medicinal preparations manufactured in 5108
accordance with the formulas prescribed by the United States 5109
Pharmacopoeia and National Formulary, patent or proprietary 5110
preparations, and other bona fide medicinal and technical 5111
preparations, which contain no more alcohol than is necessary to 5112
hold the medicinal agents in solution and to preserve the same, 5113
which are manufactured and sold as medicine and not as 5114
beverages, are unfit for use for beverage purposes, and the sale 5115
of which does not require the payment of a United States liquor 5116
dealer's tax; 5117

(G) The manufacture and sale of tinctures or of toilet, 5118
medicinal, and antiseptic preparations and solutions not 5119
intended for internal human use nor to be sold as beverages, and 5120
which are unfit for beverage purposes, if upon the outside of 5121
each bottle, box, or package of which there is printed in the 5122
English language, conspicuously and legibly, the quantity by 5123
volume of alcohol in the preparation or solution; 5124

(H) The manufacture and keeping for sale of the food 5125
products known as flavoring extracts when manufactured and sold 5126
for cooking, culinary, or flavoring purposes, and which are 5127
unfit for use for beverage purposes; 5128

(I) The lawful sale of wood alcohol or of ethyl alcohol 5129
for external use when combined with other substances as to make 5130
it unfit for internal use; 5131

(J) The manufacture, sale, and transport of ethanol or 5132
ethyl alcohol for use as fuel. As used in this division, 5133
"ethanol" has the same meaning as in section ~~5733.46~~122.075 of 5134
the Revised Code. 5135

(K) The purchase and importation into this state or the 5136
purchase at wholesale from A or B permit holders in this state 5137
of beer and intoxicating liquor for use in manufacturing 5138
processes of nonbeverage food products under terms prescribed by 5139
the division, provided that the terms prescribed by the division 5140
shall not increase the cost of the beer or intoxicating liquor 5141
to any person, firm, or corporation purchasing and importing it 5142
into this state or purchasing it from an A or B permit holder 5143
for that use; 5144

(L) Any resident of this state or any member of the armed 5145
forces of the United States, who has attained the age of twenty- 5146

one years, from bringing into this state, for personal use and 5147
not for resale, not more than one liter of spirituous liquor, 5148
four and one-half liters of wine, or two hundred eighty-eight 5149
ounces of beer in any thirty-day period, and the same is free of 5150
any tax consent fee when the resident or member of the armed 5151
forces physically possesses and accompanies the spirituous 5152
liquor, wine, or beer on returning from a foreign country, 5153
another state, or an insular possession of the United States; 5154

(M) Persons, at least twenty-one years of age, who collect 5155
ceramic commemorative bottles containing spirituous liquor that 5156
have unbroken federal tax stamps on them from selling or trading 5157
the bottles to other collectors. The bottles shall originally 5158
have been purchased at retail from the division, legally 5159
imported under division (L) of this section, or legally imported 5160
pursuant to a supplier registration issued by the division. The 5161
sales shall be for the purpose of exchanging a ceramic 5162
commemorative bottle between private collectors and shall not be 5163
for the purpose of selling the spirituous liquor for personal 5164
consumption. The sale or exchange authorized by this division 5165
shall not occur on the premises of any permit holder, shall not 5166
be made in connection with the business of any permit holder, 5167
and shall not be made in connection with any mercantile 5168
business. 5169

(N) The sale of beer or intoxicating liquor without a 5170
liquor permit at a private residence, not more than five times 5171
per calendar year at a residence address, at an event that has 5172
the following characteristics: 5173

(1) The event is for a charitable, benevolent, or 5174
political purpose, but shall not include any event the proceeds 5175
of which are for the profit or gain of any individual; 5176

- (2) The event has in attendance not more than fifty people; 5177
5178
- (3) The event shall be for a period not to exceed twelve hours; 5179
5180
- (4) The sale of beer and intoxicating liquor at the event shall not take place between two-thirty a.m. and five-thirty a.m.; 5181
5182
5183
- (5) No person under twenty-one years of age shall purchase or consume beer or intoxicating liquor at the event and no beer or intoxicating liquor shall be sold to any person under twenty-one years of age at the event; and 5184
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- (6) No person at the event shall sell or furnish beer or intoxicating liquor to an intoxicated person. 5188
5189
- (0) The possession or consumption of beer or intoxicating liquor by a person who is under twenty-one years of age and who is a student at an accredited college or university, provided that both of the following apply: 5190
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- (1) The person is required to taste and expectorate the beer or intoxicating liquor for a culinary, food service, or hospitality course. 5194
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- (2) The person is under the direct supervision of the instructor of the culinary, food service, or hospitality course. 5197
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- Sec. 4582.024.** After a port authority has been created, any municipal corporation, township, or county, acting by ordinance, resolution of the township trustees, or resolution of the county commissioners, respectively, which is contiguous to such port authority, or to any municipal corporation, township, or county which proposes to join such port authority at the same 5199
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time and is contiguous to such port authority, or any county 5205
within which such port authority is situated, may join such port 5206
authority and thereupon the jurisdiction and territory of such 5207
port authority shall include such municipal corporation, county, 5208
or township. If more than one such political subdivision is to 5209
be joined to the port authority at the same time, then each such 5210
ordinance or resolution shall designate the political 5211
subdivisions which are to be so joined. Any territory or 5212
municipal corporation not included in a port authority and which 5213
is annexed to a municipal corporation included within the 5214
jurisdiction and territory of a port authority shall, on such 5215
annexation and without further proceedings, be annexed to and be 5216
included in the jurisdiction and territory of such port 5217
authority. Before such political subdivision or subdivisions are 5218
joined to a port authority, other than by annexation to a 5219
municipality, the political subdivision or subdivisions 5220
theretofore comprising such port authority shall agree upon the 5221
terms and conditions pursuant to which such political 5222
subdivision or subdivisions are to be joined. For all purposes 5223
of sections 4582.01 to 4582.20, inclusive, of the Revised Code, 5224
such political subdivision or subdivisions shall be considered 5225
to have participated in the creation of such port authority, 5226
except that the initial term of any director of the port 5227
authority appointed by such a political subdivision shall be 5228
four years. After each ordinance or resolution proposing joinder 5229
to the port authority has become effective and the terms and 5230
conditions of joinder have been agreed to, the board of 5231
directors of the port authority shall by resolution either 5232
accept or reject such joinder. Such joinder shall be effective 5233
on adoption of the resolution accepting such joinder, unless the 5234
port authority to which a political subdivision or subdivisions 5235
including a county within which such port authority is located, 5236

are to be joined has authority under section 4582.14 of the 5237
Revised Code to levy a tax on property within its jurisdiction, 5238
then such joinder shall not be effective until approved by the 5239
affirmative vote of a majority of the electors voting on the 5240
question of such joinder. If more than one political subdivision 5241
is to be joined to the port authority, then the electors of such 5242
subdivision shall vote as a district and the majority 5243
affirmative vote shall be determined by the vote cast in such 5244
district as a whole. Such election shall be called by the board 5245
of directors of the port authority and shall be held, canvassed, 5246
and certified in the manner provided for the submission of tax 5247
levies under section 5705.191 of the Revised Code except that 5248
the question appearing on the ballot shall read: 5249

"Shall 5250
(name or names of political subdivisions to be joined) 5251
be joined to (name) port authority and the 5252
~~(name)~~ 5253
existing tax levy (levies) of such port authority (aggregating) 5254
..... mill per dollar of valuation be authorized to be 5255
levied against properties within 5256
....." 5257
(name or names of political subdivisions to be joined) 5258

If the question is approved such joinder shall be immediately 5259
effective and the port authority shall be authorized to extend 5260
the levy of such tax against all the taxable property within the 5261
political subdivision or political subdivisions which have been 5262
joined. If such question is approved at a general election then 5263

the port authority may amend its budget and resolution adopted 5264
pursuant to section 5705.34 of the Revised Code and such levy 5265
shall be placed on the current tax list and duplicate and 5266
collected as other taxes are collected from all taxable property 5267
within the port authority including the political subdivision or 5268
political subdivisions joined as a result of such election. 5269

Sec. 4582.26. After a port authority has been created, any 5270
municipal corporation, township, county, or other political 5271
subdivision, acting by ordinance or resolution, which is 5272
contiguous to any municipal corporation, township, county, or 5273
other political subdivision which participated in the creation 5274
of such port authority or to any municipal corporation, 5275
township, county, or other political subdivision which proposes 5276
to join the port authority at the same time and is contiguous to 5277
any municipal corporation, township, county, or other political 5278
subdivision which participated in the creation of such port 5279
authority, may join such port authority, and thereupon the 5280
jurisdiction and territory of the port authority includes the 5281
municipal corporation, county, township, or other political 5282
subdivision so joining. If more than one such political 5283
subdivision is to be joined to the port authority at the same 5284
time, then each such ordinance or resolution shall designate the 5285
political subdivisions which are to be so joined. Any territory 5286
or municipal corporation not included in a port authority and 5287
which is annexed to a municipal corporation included within the 5288
jurisdiction and territory of a port authority shall, on such 5289
annexation and without further proceedings, be annexed to and be 5290
included in the jurisdiction and territory of the port 5291
authority. Before such political subdivision or subdivisions are 5292
joined to a port authority, other than by annexation to a 5293
municipal corporation, the political subdivision or subdivisions 5294

theretofore comprising such port authority shall agree upon the 5295
terms and conditions pursuant to which such political 5296
subdivision or subdivisions are to be joined. For all purposes 5297
of sections 4582.21 to 4582.59 of the Revised Code, such 5298
political subdivision or subdivisions shall be considered to 5299
have participated in the creation of such port authority, except 5300
that the initial term of any director of the port authority 5301
appointed by such a political subdivision shall be four years. 5302
After each ordinance or resolution proposing joinder to the port 5303
authority has become effective and the terms and conditions of 5304
joinder have been agreed to, the board of directors of the port 5305
authority shall by resolution either accept or reject such 5306
joinder. Such joinder shall be effective upon adoption of the 5307
resolution accepting such joinder, unless the port authority to 5308
which a political subdivision or subdivisions, including a 5309
county within which such port authority is located, are to be 5310
joined, has authority under section 4582.40 of the Revised Code 5311
to levy a tax on property within its jurisdiction, then such 5312
joinder shall not be effective until approved by the affirmative 5313
vote of a majority of the electors voting on the question of the 5314
joinder. If more than one political subdivision is to be joined 5315
to the port authority, then the electors of such subdivisions 5316
shall vote as a district and the majority affirmative vote shall 5317
be determined by the vote cast in such district as a whole. The 5318
election shall be called by the board of directors of the port 5319
authority and shall be held, canvassed, and certified in the 5320
manner provided for the submission of tax levies under section 5321
5705.191 of the Revised Code except that the question appearing 5322
on the ballot shall read: 5323

"Shall 5324

(Name or names of political subdivisions to be joined) 5325

.....	5326
be joined)	5327
be joined to <u>(Name)</u> port authority	5328
(Name)	5329
and the existing tax levy (levies) of such port authority	5330
(aggregating) mill per dollar of valuation	5331
be authorized to be levied against properties within	5332
.....?"	5333
(Name or names of political subdivisions to be joined)	5334
If the question is approved the joinder becomes immediately	5335
effective and the port authority is authorized to extend the	5336
levy of such tax against all the taxable property within the	5337
political subdivision or political subdivisions which have been	5338
joined. If such question is approved at a general election, then	5339
the port authority may amend its budget and resolution adopted	5340
pursuant to section 5705.34 of the Revised Code and such levy	5341
shall be placed on the current tax list and duplicate and	5342
collected as other taxes are collected from all taxable property	5343
within the port authority including the political subdivision or	5344
political subdivisions joined as a result of the election.	5345
Sec. 4582.56. (A) As used in this section:	5346
(1) "Eligible county" means a county whose territory	5347
includes a part of Lake Erie the shoreline of which represents	5348
at least fifty per cent of the linear length of the county's	5349
border with other counties of this state.	5350
(2) "Lakeshore improvement project" means construction of	5351
a port authority facility within one mile of the Lake Erie	5352

shoreline in an eligible county. 5353

(3) "Construction" includes acquisition, alteration, 5354
construction, creation, development, enlargement, equipment, 5355
improvement, installation, reconstruction, remodeling, 5356
renovation, or any combination thereof. 5357

(B) The board of directors of a port authority may enter 5358
into an agreement with the board of county commissioners of an 5359
eligible county that created the port authority providing for 5360
all of the following, and any other terms mutually agreeable to 5361
the boards: 5362

(1) The board of county commissioners levies an excise tax 5363
under division ~~(M)~~(U) of section 5739.09 of the Revised Code 5364
and pledges all the revenue from the tax to the port authority 5365
for the purpose of financing lakeshore improvement projects 5366
including the payment of debt charges on any securities issued 5367
under division (C) of this section. 5368

(2) The port authority constructs or finances the 5369
construction of lakeshore improvements and pays the costs of 5370
such projects with revenue from the tax pledged under the 5371
agreement. Such construction or financing is an authorized 5372
purpose for the purposes of division (B) of section 4582.21 of 5373
the Revised Code. 5374

(3) The port authority may not enter into any contract or 5375
other obligation regarding a lakeshore improvement project 5376
before obtaining the approval for the project by the board of 5377
county commissioners by a resolution of the board. 5378

(C) The board of directors of a port authority that enters 5379
into an agreement under this section may issue port authority 5380
special obligation bonds, and notes anticipating the proceeds of 5381

the bonds, in the principal amount that, in the opinion of the board, are necessary for the purpose of paying the costs of one or more lakeshore improvement projects or parts of one or more projects and interest on the bonds payable over the term of the issue. The board may refund any special obligation bonds by the issuance of special obligation refunding bonds regardless of whether the bonds to be refunded have or have not matured. The refunding bonds shall be sold, and the proceeds needed for such purpose applied, in the manner provided in the bond proceedings.

Every issue of special obligation bonds issued under this section shall be payable from the revenue from the tax levied under division ~~(M)~~(U) of section 5739.09 of the Revised Code and pledged for such payment under the agreement. The pledge shall be valid and binding from the time the pledge is made, and the revenue so pledged and received by the port authority shall be subject to the lien of the pledge without any physical delivery of the revenue or any further act. The lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the port authority, whether or not such parties have notice of the lien. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the port authority's records.

Whether or not the bonds are of such form and character as to be negotiable instruments under Title XIII of the Revised Code, the bonds shall have all the qualities and incidents of negotiable instruments, subject only to their provisions for registration, if any.

Bonds issued under this section shall bear such date or dates, and shall mature at such time or times not exceeding

thirty years from the date of issue of the original bonds and 5412
shall be executed in the manner that the resolution authorizing 5413
the bonds may provide. The bonds shall bear interest at such 5414
rates, or at variable rate or rates changing from time to time, 5415
in accordance with provisions provided in the authorizing 5416
resolution, shall be in such denominations and form, either 5417
coupon or registered, shall carry such registration privileges, 5418
shall be payable in such medium of payment and at such place or 5419
places, and be subject to such terms of redemption, as the board 5420
of directors of the port authority may authorize or provide. The 5421
bonds may be sold at public or private sale, and at, or at not 5422
less than, the price or prices as the board determines. If any 5423
officer whose signature or a facsimile of whose signature 5424
appears on any bonds or coupons ceases to be such officer before 5425
delivery of the bonds, the signature or facsimile shall 5426
nevertheless be sufficient for all purposes as if the officer 5427
had remained in office until delivery of the bonds, and in case 5428
the seal of the authority has been changed after a facsimile has 5429
been imprinted on the bonds, the facsimile seal will continue to 5430
be sufficient for all purposes. 5431

Any resolution authorizing bonds under this section may 5432
contain provisions governing the use and disposition of revenue 5433
pledged under the agreement under division (B) of this section; 5434
the crediting of the proceeds of the sale of the bonds to and 5435
among the funds referred to or provided for in the resolution; 5436
limitations on the purpose to which the proceeds of sale of the 5437
bonds may be applied and the pledging of portions of such 5438
proceeds to secure payment of the bonds; the issuance of notes 5439
in anticipation of the issuance of bonds; the terms upon which 5440
additional bonds may be issued and secured; the refunding of 5441
outstanding bonds; the procedure, if any, by which the terms of 5442

any contract with bondholders may be amended, the amount of 5443
bonds the holders of which must consent thereto, and the manner 5444
in which such consent may be given; securing any bonds by a 5445
trust agreement in accordance with division (D) of this section; 5446
and any other matters that may affect the security or protection 5447
of the bonds. The taxes anticipated by the bonds are not subject 5448
to diminution by initiative or referendum or by law while the 5449
bonds or notes remain outstanding in accordance with their 5450
terms, unless provision is made by law or by the board of county 5451
commissioners and board of directors of the port authority for 5452
an adequate substitute therefor reasonably satisfactory to the 5453
trustee, if a trust agreement secures the bonds. 5454

Neither the members of the board of directors of the port 5455
authority nor any person executing the bonds shall be liable 5456
personally on the bonds or be subject to any personal liability 5457
or accountability by reason of the issuance. 5458

(D) In the discretion of the board of directors, the bonds 5459
issued under this section may be secured by a trust agreement 5460
between the board of directors on behalf of the port authority 5461
and a corporate trustee, which may be any trust company or bank 5462
having powers of a trust company, within or outside the state. 5463

The trust agreement may provide for the pledge or 5464
assignment of the tax revenue to be received under the agreement 5465
entered into under division (B) of this section, but shall not 5466
pledge the general credit or other taxing power of the county or 5467
the general credit or taxing power of the port authority. The 5468
trust agreement or the resolution providing for the issuance of 5469
the bonds may set forth the rights and remedies of the 5470
bondholders and trustee, and may contain other provisions for 5471
protecting and enforcing their rights and remedies that are 5472

determined in the discretion of the board of directors to be 5473
reasonable and proper. 5474

Sec. 5701.08. As used in Title LVII of the Revised Code: 5475

(A) Personal property is "used" within the meaning of 5476
"used in business" when employed or utilized in connection with 5477
ordinary or special operations, when acquired or held as means 5478
or instruments for carrying on the business, when kept and 5479
maintained as a part of a plant capable of operation, whether 5480
actually in operation or not, or when stored or kept on hand as 5481
material, parts, products, or merchandise. Machinery and 5482
equipment classifiable upon completion as personal property 5483
while under construction or installation to become part of a new 5484
or existing plant or other facility is not considered to be 5485
"used" by the owner of such plant or other facility within the 5486
meaning of "used in business" until such machinery and equipment 5487
is installed and in operation or capable of operation in the 5488
business for which acquired. Agricultural products in storage in 5489
a grain elevator, a warehouse, or a place of storage which 5490
products are subject to control of the United States government 5491
and are to be shipped on order of the United States government 5492
are not used in business in this state. 5493

(B) Merchandise or agricultural products shipped from 5494
outside this state and held in this state in a warehouse or a 5495
place of storage without further manufacturing or processing and 5496
for storage only and for shipment outside this state are not 5497
used in business in this state. Such property qualifies for this 5498
exception if division (B) (1) or (2) of this section applies: 5499

(1) During any period that a person owns such property in 5500
this state: 5501

(a) The property is to be shipped from a warehouse or 5502
place of storage in this state to the owner of the property or 5503
persons other than customers at locations outside this state for 5504
use, processing, or sale; or 5505

(b) The property is located in public or private 5506
warehousing facilities in this state which are not subject to 5507
the control of or under the supervision of the owner of the 5508
property or manned by its employees and from which the property 5509
is to be shipped to any person, including a customer, outside 5510
this state. 5511

(2) During the first twenty-four calendar months that a 5512
person first owns such property in this state, the property is 5513
held in a warehouse or place of storage in this state located 5514
within one mile of the closest boundary of an airport, and is 5515
shipped to any person, including a customer, outside this state. 5516

For the purposes of division (B) (2) of this section, 5517
"airport" means any airport, as defined in division (C) of 5518
section 4561.01 of the Revised Code, which is approved by the 5519
department of transportation under section 4561.11 of the 5520
Revised Code to be used for commercial purposes, is regularly 5521
served by only one air carrier authorized to do so under 14 5522
C.F.R., and is not a public airport as defined in 49 U.S.C. 5523
Appx. 2202(a) (17) as existing ~~on the effective date of this~~ 5524
~~amendment~~ July 26, 1991. 5525

(3) For property that may meet the condition for the 5526
exception provided in division (B) (2) of this section, if it is 5527
not known at the conclusion of a reporting period whether the 5528
property yet qualifies for such exception, the owner of such 5529
property shall return it for taxation. If it is later determined 5530
that the returned property does so qualify, the owner may apply 5531

for a final assessment and refund on the property as provided in 5532
section 5711.26 of the Revised Code. 5533

(C) Leased property used by the lessee exclusively for 5534
agricultural purposes and new or used machinery and equipment 5535
and accessories therefor that are designed and built for 5536
agricultural use and owned by a merchant as defined in section 5537
5711.15 of the Revised Code are not considered to be "used" 5538
within the meaning of "used in business." 5539

(D) Moneys, deposits, investments, accounts receivable, 5540
and prepaid items, and other taxable intangibles are "used" when 5541
they or the avails thereof are being applied, or are intended to 5542
be applied, in the conduct of the business, whether in this 5543
state or elsewhere. 5544

(E) "Business" includes all enterprises, except 5545
agriculture, conducted for gain, profit, or income and extends 5546
to personal service occupations. 5547

Sec. 5701.12. (A) The effective date to which this section 5548
refers is March 27, 2013, the effective date of this section as 5549
enacted by H.B. 510 of the 129th general assembly. 5550

(B) Any reference in Title LVII to "consolidated reports 5551
of condition and income" or "call report" means the consolidated 5552
reports of condition and income as those reports existed on the 5553
effective date. 5554

(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means 5555
the FR Y-9 financial statements as those financial statements 5556
existed on the effective date. 5557

(D) This section does not apply to any reference in Title 5558
LVII of the Revised Code to "consolidated reports of condition 5559
and income," "call report," "FR Y-9," or "Y-9" as of a date 5560

certain specifying the day, month, and year. 5561

Sec. 5703.04. The tax commissioner shall have the 5562
following powers, duties, privileges, and immunities of the 5563
department of taxation: 5564

(A) All powers whatsoever of an inquisitorial nature as 5565
provided by law, including, the right to inspect books, 5566
accounts, records, and memorandums, to examine persons under 5567
oath, to issue orders or subpoenas for the production of books, 5568
accounts, papers, records, documents, and testimony, to take 5569
depositions, to apply to a court for attachment proceedings as 5570
for contempt, to approve vouchers for the fees of officers and 5571
witnesses, and to administer oaths; provided that the powers 5572
referred to in this division of this section shall be exercised 5573
by the board of tax appeals or by the tax commissioner only in 5574
connection with the performance of the duties respectively 5575
assigned to each under sections 5703.01 to 5703.09, 5703.14, and 5576
5703.15 of the Revised Code; 5577

(B) Appoint agents and prescribe their powers and duties 5578
as provided by section 5703.17 of the Revised Code; 5579

(C) Confer and meet with officers of other states and 5580
officers of the United States on any matters pertaining to their 5581
respective official duties as provided by law; 5582

(D) The immunity provided by section 5703.38 of the 5583
Revised Code; 5584

(E) The rights of action provided by section 5703.39 of 5585
the Revised Code; 5586

(F) The duties and powers mentioned in section 5703.41 of 5587
the Revised Code. 5588

Sec. 5703.21. (A) Except as provided in divisions (B) and 5589
(C) of this section, no agent of the department of taxation, 5590
except in the agent's report to the department or when called on 5591
to testify in any court or proceeding, shall divulge any 5592
information acquired by the agent as to the transactions, 5593
property, or business of any person while acting or claiming to 5594
act under orders of the department. Whoever violates this 5595
provision shall thereafter be disqualified from acting as an 5596
officer or employee or in any other capacity under appointment 5597
or employment of the department. 5598

(B) (1) For purposes of an audit pursuant to section 117.15 5599
of the Revised Code, or an audit of the department pursuant to 5600
Chapter 117. of the Revised Code, or an audit, pursuant to that 5601
chapter, the objective of which is to express an opinion on a 5602
financial report or statement prepared or issued pursuant to 5603
division (A) (7) or (9) of section 126.21 of the Revised Code, 5604
the officers and employees of the auditor of state charged with 5605
conducting the audit shall have access to and the right to 5606
examine any state tax returns and state tax return information 5607
in the possession of the department to the extent that the 5608
access and examination are necessary for purposes of the audit. 5609
Any information acquired as the result of that access and 5610
examination shall not be divulged for any purpose other than as 5611
required for the audit or unless the officers and employees are 5612
required to testify in a court or proceeding under compulsion of 5613
legal process. Whoever violates this provision shall thereafter 5614
be disqualified from acting as an officer or employee or in any 5615
other capacity under appointment or employment of the auditor of 5616
state. 5617

(2) For purposes of an internal audit pursuant to section 5618
126.45 of the Revised Code, the officers and employees of the 5619

office of internal audit in the office of budget and management 5620
charged with directing the internal audit shall have access to 5621
and the right to examine any state tax returns and state tax 5622
return information in the possession of the department to the 5623
extent that the access and examination are necessary for 5624
purposes of the internal audit. Any information acquired as the 5625
result of that access and examination shall not be divulged for 5626
any purpose other than as required for the internal audit or 5627
unless the officers and employees are required to testify in a 5628
court or proceeding under compulsion of legal process. Whoever 5629
violates this provision shall thereafter be disqualified from 5630
acting as an officer or employee or in any other capacity under 5631
appointment or employment of the office of internal audit. 5632

(3) As provided by section 6103(d) (2) of the Internal 5633
Revenue Code, any federal tax returns or federal tax information 5634
that the department has acquired from the internal revenue 5635
service, through federal and state statutory authority, may be 5636
disclosed to the auditor of state or the office of internal 5637
audit solely for purposes of an audit of the department. 5638

(4) For purposes of Chapter 3739. of the Revised Code, an 5639
agent of the department of taxation may share information with 5640
the division of state fire marshal that the agent finds during 5641
the course of an investigation. 5642

(C) Division (A) of this section does not prohibit any of 5643
the following: 5644

(1) Divulging information contained in applications, 5645
complaints, and related documents filed with the department 5646
under section 5715.27 of the Revised Code or in applications 5647
filed with the department under section 5715.39 of the Revised 5648
Code; 5649

- (2) Providing information to the office of child support 5650
within the department of job and family services pursuant to 5651
section 3125.43 of the Revised Code; 5652
- (3) Disclosing to the motor vehicle repair board any 5653
information in the possession of the department that is 5654
necessary for the board to verify the existence of an 5655
applicant's valid vendor's license and current state tax 5656
identification number under section 4775.07 of the Revised Code; 5657
- (4) Providing information to the administrator of workers' 5658
compensation pursuant to sections 4123.271 and 4123.591 of the 5659
Revised Code; 5660
- (5) Providing to the attorney general information the 5661
department obtains under division (J) of section 1346.01 of the 5662
Revised Code; 5663
- (6) Permitting properly authorized officers, employees, or 5664
agents of a municipal corporation from inspecting reports or 5665
information pursuant to section 718.84 of the Revised Code or 5666
rules adopted under section 5745.16 of the Revised Code; 5667
- (7) Providing information regarding the name, account 5668
number, or business address of a holder of a vendor's license 5669
issued pursuant to section 5739.17 of the Revised Code, a holder 5670
of a direct payment permit issued pursuant to section 5739.031 5671
of the Revised Code, or a seller having a use tax account 5672
maintained pursuant to section 5741.17 of the Revised Code, or 5673
information regarding the active or inactive status of a 5674
vendor's license, direct payment permit, or seller's use tax 5675
account; 5676
- (8) Releasing invoices or invoice information furnished 5677
under section 4301.433 of the Revised Code pursuant to that 5678

section;	5679
(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;	5680 5681 5682 5683 5684
(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;	5685 5686
(11) Subject to section 4301.441 of the Revised Code, disclosing to the appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;	5687 5688 5689 5690 5691
(12) Disclosing to the department of natural resources information in the possession of the department of taxation that is necessary for the department of taxation to verify the taxpayer's compliance with section 5749.02 of the Revised Code or to allow the department of natural resources to enforce Chapter 1509. of the Revised Code;	5692 5693 5694 5695 5696 5697
(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.	5698 5699 5700 5701 5702 5703 5704 5705 5706
(14) Disclosing to the Ohio casino control commission	5707

information in the possession of the department of taxation that 5708
is necessary to verify a casino operator's compliance with 5709
section 5747.063 or 5753.02 of the Revised Code and sections 5710
related thereto; 5711

(15) Disclosing to the state lottery commission 5712
information in the possession of the department of taxation that 5713
is necessary to verify a lottery sales agent's compliance with 5714
section 5747.064 of the Revised Code; 5715

(16) Disclosing to the development services agency 5716
information in the possession of the department of taxation that 5717
is necessary to ensure compliance with the laws of this state 5718
governing taxation and to verify information reported to the 5719
development services agency for the purpose of evaluating 5720
potential tax credits, grants, or loans. Such information shall 5721
not include information received from the internal revenue 5722
service the disclosure of which is prohibited by section 6103 of 5723
the Internal Revenue Code. No officer, employee, or agent of the 5724
development services agency shall disclose any information 5725
provided to the development services agency by the department of 5726
taxation under division (C)(16) of this section except when 5727
disclosure of the information is necessary for, and made solely 5728
for the purpose of facilitating, the evaluation of potential tax 5729
credits, grants, or loans. 5730

(17) Disclosing to the department of insurance information 5731
in the possession of the department of taxation that is 5732
necessary to ensure a taxpayer's compliance with the 5733
requirements with any tax credit administered by the development 5734
services agency and claimed by the taxpayer against any tax 5735
administered by the superintendent of insurance. No officer, 5736
employee, or agent of the department of insurance shall disclose 5737

any information provided to the department of insurance by the 5738
department of taxation under division (C) (17) of this section. 5739

(18) Disclosing to the division of liquor control 5740
information in the possession of the department of taxation that 5741
is necessary for the division and department to comply with the 5742
requirements of sections 4303.26 and 4303.271 of the Revised 5743
Code~~+~~. 5744

Sec. 5703.211. (A) The tax commissioner shall adopt rules 5745
under Chapter 119. of the Revised Code that, except as otherwise 5746
provided in division (B) of this section, require that any 5747
search of any of the databases of the department of taxation be 5748
tracked so that administrators of the database or investigators 5749
can identify each account holder who conducted a search of the 5750
database. 5751

(B) The rules adopted under division (A) of this section 5752
shall not require the tracking of any search of any of the 5753
databases of the department conducted by an account holder in 5754
any of the following circumstances: 5755

(1) The search occurs as a result of research performed 5756
for official agency purposes, routine office procedures, or 5757
incidental contact with the information, unless the search is 5758
specifically directed toward a ~~specifically~~ specifically named 5759
individual or a group of specifically named individuals. 5760

(2) The search is for information about an individual, and 5761
it is performed as a result of a request by that individual for 5762
information about that individual. 5763

Sec. 5703.54. (A) A taxpayer aggrieved by an action or 5764
omission of an officer or employee of the department of taxation 5765
may bring an action for damages in the court of claims pursuant 5766

to Chapter ~~2734.~~2743. of the Revised Code, if all of the 5767
following apply: 5768

(1) In the action or omission the officer or employee 5769
frivolously disregards a provision of Chapter 5711., 5733., 5770
5739., 5741., or 5747. of the Revised Code or a rule of the tax 5771
commissioner adopted under authority of one of those chapters; 5772

(2) The action or omission occurred with respect to an 5773
audit or assessment and the review and collection proceedings 5774
connected with the audit or assessment; 5775

(3) The officer or employee did not act manifestly outside 5776
the scope of the officer's or employee's office or employment 5777
and did not act with malicious purpose, in bad faith, or in a 5778
wanton or reckless manner. 5779

(B) In any action brought under division (A) of this 5780
section, upon a finding of liability on the part of the state, 5781
the state shall be liable to the taxpayer in an amount equal to 5782
the sum of the following: 5783

(1) Compensatory damages sustained by the taxpayer as a 5784
result of the action or omission by the department's officer or 5785
employee; 5786

(2) Reasonable costs of litigation and attorneys fees 5787
sustained by the taxpayer. 5788

(C) In the awarding of damages under division (B) of this 5789
section, the court shall take into account the negligent actions 5790
or omissions, if any, on the part of the taxpayer that 5791
contributed to the damages, but shall not be bound by the 5792
provisions of sections 2315.32 to 2315.36 of the Revised Code. 5793

(D) Whenever it appears to the court that a taxpayer's 5794

conduct in the proceedings brought under division (A) of this 5795
section is frivolous, the court may impose a penalty against the 5796
taxpayer in an amount not to exceed ten thousand dollars which 5797
shall be paid to the general revenue fund of the state. 5798

(E) (1) Division (A) of this section does not apply to 5799
advisory opinions or other informational functions of an officer 5800
or employee of the department. 5801

(2) Division (A) of this section does not authorize a 5802
taxpayer to bring an action for damages based on an action or 5803
omission of a county auditor or an employee of a county auditor. 5804

(F) As used in this section, "frivolous" means that the 5805
conduct of the commissioner, or of the taxpayer or the 5806
taxpayer's counsel of record satisfies either of the following: 5807

(1) It obviously serves merely to harass or maliciously 5808
injure the state or its employees or officers if referring to 5809
the conduct of a taxpayer, or to harass or maliciously injure 5810
the taxpayer if referring to the conduct of the tax 5811
commissioner; 5812

(2) It is not warranted under existing law and cannot be 5813
supported by a good faith argument for an extension, 5814
modification, or reversal of existing law. 5815

Sec. 5703.94. (A) As used in this section: 5816

(1) "Declared disaster" means an event for which a 5817
disaster declaration has been issued. 5818

(2) "Disaster declaration" means a declaration issued by 5819
the president of the United States or the governor of this state 5820
that an emergency exists. 5821

(3) "Disaster response period" means the period that 5822

begins on the tenth day preceding the day on which a disaster 5823
declaration is issued through the sixtieth day following the day 5824
that the disaster declaration expires or is rescinded. 5825

(4) "Disaster work" means both of the following: 5826

(a) Repairing, renovating, installing, or constructing 5827
critical infrastructure damaged or destroyed by the declared 5828
disaster, or other business activities related to that critical 5829
infrastructure; 5830

(b) Activities conducted in preparation for any activity 5831
described in division (A) (4) (a) of this section. 5832

(5) "Critical infrastructure" means property and equipment 5833
owned or used by a qualifying owner or user to provide service 5834
to more than one customer, including related support facilities 5835
such as buildings, offices, power lines, cable lines, poles, 5836
communication lines, and structures. 5837

(6) "Qualifying owner or user" means a public utility, 5838
commercial mobile radio service provider, cable service 5839
provider, or video service provider. 5840

(7) "Public utility" has the same meaning as in section 5841
4905.02 of the Revised Code, without regard to the exclusions 5842
from that definition prescribed in divisions (A) (1) to (5) of 5843
that section. 5844

(8) "Commercial mobile radio service provider" means a 5845
person providing commercial mobile service as defined in 47 5846
U.S.C. 332(d). 5847

(9) "Cable service provider" and "video service provider" 5848
have the same meanings as in section 1332.21 of the Revised 5849
Code. 5850

(10) "Out-of-state disaster business" means a person that 5851
does all of the following or to which apply all of the 5852
following: 5853

(a) Receives a qualifying solicitation; 5854

(b) Conducts disaster work in this state during a disaster 5855
response period; 5856

(c) Is not subject to taxation under Chapter 5747. or 5857
5751. of the Revised Code on any basis other than such disaster 5858
work during the calendar year preceding the year in which the 5859
disaster response period begins or is subject to such taxation 5860
during that year solely because the person is a related member 5861
of another person. 5862

(11) "Out-of-state employee" means an individual who 5863
performs no work in this state, except disaster work during a 5864
disaster response period, from the first day of the preceding 5865
calendar year to the date on which the disaster response period 5866
begins. 5867

(12) "Related member" has the same meaning as in section 5868
5733.042 of the Revised Code without regard to division (B) of 5869
that section. 5870

(13) "Qualifying solicitation" means a written 5871
solicitation or request from the state, a county, municipal 5872
corporation, or township, or a qualifying user or owner of 5873
critical infrastructure soliciting or requesting the assistance 5874
of a person to perform disaster work in this state. 5875

(14) "Qualifying employee" means one of the following: 5876

(a) An out-of-state employee performing disaster work in 5877
this state during a disaster response period whose employer 5878

receives a qualifying solicitation to perform such work; 5879

(b) An out-of-state employee performing disaster work in 5880
this state on critical infrastructure owned or used by the 5881
employee's employer during a disaster response period, provided 5882
that employer is a qualifying user or owner. 5883

(B) An out-of-state disaster business or qualifying 5884
employee shall qualify for all of the following, as applicable: 5885

(1) The exemption authorized in division (C) (20) of 5886
section 718.01, the exemption authorized in division (C) (10) of 5887
section 5741.02, the deduction authorized in division (A) ~~(33)~~ 5888
(30) of section 5747.01, and the exclusion authorized in 5889
division (F) (2) (11) of section 5751.01 of the Revised Code; 5890

(2) An exemption from any requirement to file a document 5891
or application with or to remit a fee to the secretary of state 5892
as a condition precedent to engaging in business in this state, 5893
in accordance with section 1701.041 of the Revised Code; 5894

(3) An exemption from the requirements of Chapters 4121., 5895
4123., and 4141. of the Revised Code, in accordance with 5896
division (A) (2) of section 4123.01 and section 4141.42 of the 5897
Revised Code; 5898

(4) An exemption from the requirement to obtain a state or 5899
local occupational license or other authorization, in accordance 5900
with section 4799.04 of the Revised Code. 5901

(C) (1) Upon the request of the tax commissioner, an out- 5902
of-state disaster business shall provide the following 5903
information to the commissioner: 5904

(a) The name of the out-of-state disaster business and the 5905
address of its principal place of business; 5906

(b) The business' federal tax identification number;	5907
(c) A copy of the qualifying solicitation received by the business;	5908 5909
(d) The dates that the out-of-state disaster business and each of the business' out-of-state employees performing disaster work in this state during a disaster response period began performing disaster work in this state during that period;	5910 5911 5912 5913
(e) The name and social security number of each of the out-of-state disaster business' out-of-state employees performing disaster work in this state during a disaster response period;	5914 5915 5916 5917
(f) The name of any person of which the out-of-state disaster business is a related member, provided that person is subject to taxation under Chapter 5747. or 5751. of the Revised Code during the calendar year preceding the year in which the disaster response period begins;	5918 5919 5920 5921 5922
(g) Any other information required by the tax commissioner.	5923 5924
(2) Upon the request of the tax commissioner, the employer of a qualifying employee shall provide the following information to the commissioner:	5925 5926 5927
(a) The employer's name and the address of its principal place of business;	5928 5929
(b) The employer's federal tax identification number;	5930
(c) For the employer of a qualifying employee described in division (A)(14)(a) of this section, a copy of the qualifying solicitation received by the employer;	5931 5932 5933

(d) The date each of the employer's out-of-state employees 5934
performing disaster work in this state during a disaster 5935
response period began performing disaster work in this state 5936
during that period; 5937

(e) The name and social security number of each of the 5938
employer's out-of-state employees performing disaster work in 5939
this state during a disaster response period; 5940

(f) Any other information required by the tax 5941
commissioner. 5942

(3) If the commissioner makes a request under division (C) 5943
(1) or (2) of this section, the out-of-state disaster business 5944
or employer shall submit information described in that division 5945
to the commissioner not later than thirty days from the date the 5946
disaster response period terminates or thirty days after the 5947
business or employer receives the request, whichever is later. 5948

(D) The department of taxation may adopt rules necessary 5949
to administer this section. 5950

Sec. 5703.95. (A) As used in this section, "tax 5951
expenditure" has the same meaning as in section 5703.48 of the 5952
Revised Code. 5953

(B) There is hereby created the tax expenditure review 5954
committee, consisting of seven members, composed of the 5955
following: 5956

(1) Three members of the house of representatives 5957
appointed by the speaker of the house of representatives in 5958
consultation with the minority leader of the house of 5959
representatives. Members described in division (B)(1) of this 5960
section shall not all be members of the same party and should be 5961
members of the house of representatives committee that deals 5962

primarily with tax legislation; 5963

(2) Three members of the senate appointed by the president 5964
of the senate in consultation with the minority leader of the 5965
senate. Members described in division (B)(2) of this section 5966
shall not all be members of the same party and should be members 5967
of the senate committee that deals primarily with tax 5968
legislation; 5969

(3) The tax commissioner or the tax commissioner's 5970
designee. The member described in division (B)(3) of this 5971
section shall be a nonvoting member. 5972

The speaker of the house of representatives and the 5973
president of the senate shall make initial appointments to the 5974
committee not later than thirty days ~~following the effective~~ 5975
~~date of the enactment of this section~~ after March 21, 2017. 5976
Thereafter, the terms of the office for appointed members shall 5977
be the same as the term of each general assembly. Members may be 5978
reappointed, provided the member continues to meet all other 5979
eligibility requirements. Vacancies shall be filled in the 5980
manner provided for original appointments. Any member appointed 5981
to fill a vacancy before the expiration of the term for which 5982
the predecessor was appointed shall hold office as a member for 5983
the remainder of that term. Appointed members of the committee 5984
serve at the pleasure of the member's appointing authority and 5985
may be removed only by the appointing authority. 5986

(C) The tax expenditure review committee shall hold its 5987
first meeting within ninety days after ~~the effective date of the~~ 5988
~~enactment of this section~~ March 21, 2017. At the first meeting, 5989
the members shall elect a chairperson, who shall be one of the 5990
members described in division (B)(1) or (2) of this section. 5991
Thereafter, the committee shall meet at least once during the 5992

first year of each fiscal biennium to review existing tax 5993
expenditures pursuant to division (D) of this section, provided 5994
the committee shall hold, for any such expenditure, at least one 5995
meeting at which a person may present to the committee evidence 5996
or testimony related to that expenditure. Any person may submit 5997
to the chairperson a request that the committee meet to accept 5998
evidence or testimony on a tax expenditure. The committee is a 5999
public body for the purposes of section 121.22 of the Revised 6000
Code. 6001

The chairperson of the committee shall serve until the 6002
thirty-first day of December of each even-numbered year. 6003
Thereafter, members shall elect a new chairperson. If the 6004
preceding chairperson was a member described in division (B) (1) 6005
of this section, the new chairperson shall be a member described 6006
in division (B) (2) of this section. If the preceding chairperson 6007
was a member described in division (B) (2) of this section, the 6008
new chairperson shall be a member described in division (B) (1) 6009
of this section. 6010

A vacancy on the committee does not impair the right of 6011
the other members to exercise all the functions of the 6012
committee. The presence of a majority of the voting members of 6013
the committee constitutes a quorum for the conduct of business 6014
of the committee. The concurrence of at least a majority of the 6015
voting members of the committee is necessary for any action to 6016
be taken by the committee. 6017

Upon the committee's request, the department of taxation, 6018
development services agency, office of budget and management, or 6019
other state agency shall provide any information in its 6020
possession that the committee requires to perform its duties. 6021

The staff of the legislative service commission shall 6022

assist the committee as directed by the committee. 6023

(D) The committee shall establish a schedule for review 6024
for each tax expenditure so that each expenditure is reviewed at 6025
least once every eight years. The schedule may provide for the 6026
review of each tax expenditure in the order the expenditures 6027
were enacted or modified, beginning with the least recently 6028
enacted or modified tax expenditure. Alternatively, the review 6029
schedule may group tax expenditures by the individuals or 6030
industries benefiting from the expenditures, the objectives of 6031
each expenditure, or the policy rationale of each expenditure. 6032
In its review, the committee shall make recommendations as to 6033
whether each tax expenditure should be continued without 6034
modification, modified, scheduled for further review at a future 6035
date to consider repealing the expenditure, or repealed 6036
outright. For each expenditure reviewed, the committee may 6037
recommend accountability standards for the future review of the 6038
expenditure. The committee may consider, when reviewing a tax 6039
expenditure, any of the relevant factors described in division 6040
(E) of this section. 6041

(E) In conducting reviews pursuant to division (D) of this 6042
section, the committee may consider the following factors: 6043

(1) The number and classes of persons, organizations, 6044
businesses, or types of industries that would receive the direct 6045
benefit or consequences of the tax expenditure; 6046

(2) The fiscal impact of the tax expenditure on state and 6047
local taxing authorities, including any past fiscal effects and 6048
expected future fiscal impacts of the tax expenditure in the 6049
following eight-year period; 6050

(3) Public policy objectives that might support the tax 6051

expenditure. In researching such objectives, the committee may 6052
consider the expenditure's legislative history, the tax 6053
expenditure's sponsor's intent in proposing the tax expenditure, 6054
or the extent to which the tax expenditure encourages or would 6055
encourage business growth or relocation into the state, promotes 6056
or would promote growth or retention of high-wage jobs in the 6057
state, or aids or would aid community stabilization. 6058

(4) Whether the tax expenditure successfully accomplishes 6059
any of the objectives identified in division (E) (3) of this 6060
section; 6061

(5) Whether the objectives identified in division (E) (3) 6062
of this section would or could have been accomplished 6063
successfully in the absence of the tax expenditure or with less 6064
cost to the state or local governments; 6065

(6) Whether the objectives identified in division (E) (3) 6066
of this section could have been accomplished successfully 6067
through a program that requires legislative appropriations for 6068
funding; 6069

(7) The extent to which the tax expenditure may provide 6070
unintended benefits to an individual, organization, or industry 6071
other than those the general assembly or sponsor intended or 6072
creates an unfair competitive advantage for its recipient with 6073
respect to other businesses in the state; 6074

(8) The extent to which terminating the tax expenditure 6075
may have negative effects on taxpayers that currently benefit 6076
from the tax expenditure; 6077

(9) The extent to which terminating the tax expenditure 6078
may have negative or positive effects on the state's employment 6079
and economy; 6080

(10) The feasibility of modifying the tax expenditure to provide for adjustment or recapture of the proceeds of the tax expenditure if the objectives of the tax expenditure are not fulfilled by the recipient of the tax expenditure.

(F) The committee shall prepare a report of its determinations under division (D) of this section and, not later than the first day of July of each even-numbered year, submit a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leader of the house of representatives, and the minority leader of the senate. The first report shall be submitted either in ~~the year of the effective date of this section or in the first even-numbered year thereafter~~ 2017 or 2018. If the committee maintains a web site, the committee shall cause a copy of the report to be posted on the web site in a form enabling access to the report by the public within thirty days after the report is submitted under this division. If the committee does not maintain a web site, the committee shall request that the president of the senate and the speaker of the house of representatives cause the report to be posted on the web site of the general assembly.

(G) Any bill introduced in the house of representatives or the senate that proposes to enact or modify one or more tax expenditures should include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification.

Sec. 5705.03. (A) The taxing authority of each subdivision may levy taxes annually, subject to the limitations of sections 5705.01 to 5705.47 of the Revised Code, on the real and personal

property within the subdivision for the purpose of paying the 6111
current operating expenses of the subdivision and acquiring or 6112
constructing permanent improvements. The taxing authority of 6113
each subdivision and taxing unit shall, subject to the 6114
limitations of such sections, levy such taxes annually as are 6115
necessary to pay the interest and sinking fund on and retire at 6116
maturity the bonds, notes, and certificates of indebtedness of 6117
such subdivision and taxing unit, including levies in 6118
anticipation of which the subdivision or taxing unit has 6119
incurred indebtedness. 6120

(B) (1) When a taxing authority determines that it is 6121
necessary to levy a tax outside the ten-mill limitation for any 6122
purpose authorized by the Revised Code, the taxing authority 6123
shall certify to the county auditor a resolution or ordinance 6124
requesting that the county auditor certify to the taxing 6125
authority the total current tax valuation of the subdivision, 6126
and the number of mills required to generate a specified amount 6127
of revenue, or the dollar amount of revenue that would be 6128
generated by a specified number of mills. The resolution or 6129
ordinance shall state all of the following: 6130

(a) The purpose of the tax; 6131

(b) Whether the tax is an additional levy, a renewal or a 6132
replacement of an existing tax, or a renewal or replacement of 6133
an existing tax with an increase or a decrease; 6134

(c) The section of the Revised Code authorizing submission 6135
of the question of the tax; 6136

(d) The term of years of the tax or if the tax is for a 6137
continuing period of time; 6138

(e) That the tax is to be levied upon the entire territory 6139

of the subdivision or, if authorized by the Revised Code, a 6140
description of the portion of the territory of the subdivision 6141
in which the tax is to be levied; 6142

(f) The date of the election at which the question of the 6143
tax shall appear on the ballot; 6144

(g) That the ballot measure shall be submitted to the 6145
entire territory of the subdivision or, if authorized by the 6146
Revised Code, a description of the portion of the territory of 6147
the subdivision to which the ballot measure shall be submitted; 6148

(h) The tax year in which the tax will first be levied and 6149
the calendar year in which the tax will first be collected; 6150

(i) Each such county in which the subdivision has 6151
territory. 6152

If a subdivision is located in more than one county, the 6153
county auditor shall obtain from the county auditor of each 6154
other county in which the subdivision is located the current tax 6155
valuation for the portion of the subdivision in that county. The 6156
county auditor shall issue the certification to the taxing 6157
authority within ten days after receiving the taxing authority's 6158
resolution or ordinance requesting it. 6159

~~(2) When considering the tangible personal property 6160
component of the tax valuation of the subdivision, the county 6161
auditor shall take into account the assessment percentages 6162
prescribed in section 5711.22 of the Revised Code. The tax 6163
commissioner may issue rules, orders, or instructions directing 6164
how the assessment percentages must be utilized. 6165~~

~~(3) Upon receiving the certification from the county 6166
auditor, the taxing authority may adopt a resolution or 6167
ordinance stating the rate of the tax levy, expressed in mills 6168~~

for each one dollar in tax valuation as estimated by the county auditor, and that the taxing authority will proceed with the submission of the question of the tax to electors. The taxing authority shall certify this resolution or ordinance, a copy of the county auditor's certification, and the resolution or ordinance the taxing authority adopted under division (B)(1) of this section to the proper county board of elections in the manner and within the time prescribed by the section of the Revised Code governing submission of the question. The county board of elections shall not submit the question of the tax to electors unless a copy of the county auditor's certification accompanies the resolutions or ordinances the taxing authority certifies to the board. Before requesting a taxing authority to submit a tax levy, any agency or authority authorized to make that request shall first request the certification from the county auditor provided under this section.

~~(4)~~ (3) This division is supplemental to, and not in derogation of, any similar requirement governing the certification by the county auditor of the tax valuation of a subdivision or necessary tax rates for the purposes of the submission of the question of a tax in excess of the ten-mill limitation, including sections 133.18 and 5705.195 of the Revised Code.

(C) All taxes levied on property shall be extended on the tax list and duplicate by the county auditor of the county in which the property is located, and shall be collected by the county treasurer of such county in the same manner and under the same laws and rules as are prescribed for the assessment and collection of county taxes. The proceeds of any tax levied by or for any subdivision when received by its fiscal officer shall be deposited in its treasury to the credit of the appropriate fund.

Sec. 5705.13. (A) A taxing authority of a subdivision, by 6200
resolution or ordinance, may establish reserve balance accounts 6201
to accumulate currently available resources for the following 6202
purposes: 6203

(1) To stabilize subdivision budgets against cyclical 6204
changes in revenues and expenditures; 6205

(2) Except as otherwise provided by this section, to 6206
provide for the payment of claims and deductibles under an 6207
individual or joint self-insurance program for the subdivision, 6208
if the subdivision is permitted by law to establish such a 6209
program; 6210

(3) To provide for the payment of claims, assessments, and 6211
deductibles under a self-insurance program, individual 6212
retrospective ratings plan, group rating plan, group 6213
retrospective rating plan, medical only program, deductible 6214
plan, or large deductible plan for workers' compensation. 6215

The ordinance or resolution establishing a reserve balance 6216
account shall state the purpose for which the account is 6217
established, the fund in which the account is to be established, 6218
and the total amount of money to be reserved in the account. 6219

Not more than one reserve balance account may be 6220
established for each of the purposes permitted under divisions 6221
(A) (2) and (3) of this section. Money to the credit of a reserve 6222
balance account may be expended only for the purpose for which 6223
the account was established. 6224

A reserve balance account established for the purpose 6225
described in division (A) (1) of this section may be established 6226
in the general fund or in one or more special funds for 6227
operating purposes of the subdivision. The amount of money to be 6228

reserved in such an account in any fiscal year shall not exceed 6229
five per cent of the revenue credited in the preceding fiscal 6230
year to the fund in which the account is established, or, in the 6231
case of a reserve balance account of a county or of a township, 6232
the greater of that amount or one-sixth of the expenditures 6233
during the preceding fiscal year from the fund in which the 6234
account is established. Subject to division ~~(G)~~ (F) of section 6235
5705.29 of the Revised Code, any reserve balance in an account 6236
established under division (A) (1) of this section shall not be 6237
considered part of the unencumbered balance or revenue of the 6238
subdivision under division (A) of section 5705.35 or division 6239
(A) (1) of section 5705.36 of the Revised Code. 6240

At any time, a taxing authority of a subdivision, by 6241
resolution or ordinance, may reduce or eliminate the reserve 6242
balance in a reserve balance account established for the purpose 6243
described in division (A) (1) of this section. 6244

A reserve balance account established for the purpose 6245
described in division (A) (2) or (3) of this section shall be 6246
established in the general fund of the subdivision or by the 6247
establishment of a separate internal service fund established to 6248
account for the operation of an individual or joint self- 6249
insurance program described in division (A) (2) of this section 6250
or a workers' compensation program or plan described in division 6251
(A) (3) of this section, and shall be based on sound actuarial 6252
principles. The total amount of money in a reserve balance 6253
account for self-insurance may be expressed in dollars or as the 6254
amount determined to represent an adequate reserve according to 6255
sound actuarial principles. 6256

A taxing authority of a subdivision, by resolution or 6257
ordinance, may rescind a reserve balance account established 6258

under this division. If a reserve balance account is rescinded, 6259
money that has accumulated in the account shall be transferred 6260
to the fund or funds from which the money originally was 6261
transferred. 6262

(B) A taxing authority of a subdivision, by resolution or 6263
ordinance, may establish a special revenue fund for the purpose 6264
of accumulating resources for the payment of accumulated sick 6265
leave and vacation leave, and for payments in lieu of taking 6266
compensatory time off, upon the termination of employment or the 6267
retirement of officers and employees of the subdivision. The 6268
special revenue fund may also accumulate resources for payment 6269
of salaries during any fiscal year when the number of pay 6270
periods exceeds the usual and customary number of pay periods. 6271
Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the 6272
Revised Code, the taxing authority, by resolution or ordinance, 6273
may transfer money to the special revenue fund from any other 6274
fund of the subdivision from which such payments may lawfully be 6275
made. The taxing authority, by resolution or ordinance, may 6276
rescind a special revenue fund established under this division. 6277
If a special revenue fund is rescinded, money that has 6278
accumulated in the fund shall be transferred to the fund or 6279
funds from which the money originally was transferred. 6280

(C) A taxing authority of a subdivision, by resolution or 6281
ordinance, may establish a capital projects fund for the purpose 6282
of accumulating resources for the acquisition, construction, or 6283
improvement of fixed assets of the subdivision. For the purposes 6284
of this section, "fixed assets" includes motor vehicles. More 6285
than one capital projects fund may be established and may exist 6286
at any time. The ordinance or resolution shall identify the 6287
source of the money to be used to acquire, construct, or improve 6288
the fixed assets identified in the resolution or ordinance, the 6289

amount of money to be accumulated for that purpose, the period 6290
of time over which that amount is to be accumulated, and the 6291
fixed assets that the taxing authority intends to acquire, 6292
construct, or improve with the money to be accumulated in the 6293
fund. 6294

A taxing authority of a subdivision shall not accumulate 6295
money in a capital projects fund for more than ten years after 6296
the resolution or ordinance establishing the fund is adopted. If 6297
the subdivision has not entered into a contract for the 6298
acquisition, construction, or improvement of fixed assets for 6299
which money was accumulated in such a fund before the end of 6300
that ten-year period, the fiscal officer of the subdivision 6301
shall transfer all money in the fund to the fund or funds from 6302
which that money originally was transferred or the fund that 6303
originally was intended to receive the money. 6304

A taxing authority of a subdivision, by resolution or 6305
ordinance, may rescind a capital projects fund. If a capital 6306
projects fund is rescinded, money that has accumulated in the 6307
fund shall be transferred to the fund or funds from which the 6308
money originally was transferred. 6309

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of 6310
the Revised Code, the taxing authority of a subdivision, by 6311
resolution or ordinance, may transfer money to the capital 6312
projects fund from any other fund of the subdivision that may 6313
lawfully be used for the purpose of acquiring, constructing, or 6314
improving the fixed assets identified in the resolution or 6315
ordinance. 6316

Sec. 5705.19. This section does not apply to school 6317
districts, county school financing districts, or lake facilities 6318
authorities. 6319

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific

permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue; 6349
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(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships; 6351
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(H) For parks and recreational purposes; 6354

(I) For providing and maintaining fire apparatus, mechanical resuscitators, underwater rescue and recovery equipment, or other fire equipment and appliances, buildings and sites therefor, or sources of water supply and materials therefor, for the establishment and maintenance of lines of fire-alarm communications, for the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, for the purchase of ambulance equipment, for the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company, or for the payment of other related costs; 6355
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(J) For providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, for the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, for the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in 6370
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order to obtain police protection, for the provision of	6379
ambulance or emergency medical services operated by a police	6380
department, or for the payment of other related costs;	6381
(K) For the maintenance and operation of a county home or	6382
detention facility;	6383
(L) For community developmental disabilities programs and	6384
services pursuant to Chapter 5126. of the Revised Code, except	6385
that such levies shall be subject to the procedures and	6386
requirements of section 5705.222 of the Revised Code;	6387
(M) For regional planning;	6388
(N) For a county's share of the cost of maintaining and	6389
operating schools, district detention facilities, forestry	6390
camps, or other facilities, or any combination thereof,	6391
established under section 2151.65 or 2152.41 of the Revised Code	6392
or both of those sections;	6393
(O) For providing for flood defense, providing and	6394
maintaining a flood wall or pumps, and other purposes to prevent	6395
floods;	6396
(P) For maintaining and operating sewage disposal plants	6397
and facilities;	6398
(Q) For the purpose of purchasing, acquiring,	6399
constructing, enlarging, improving, equipping, repairing,	6400
maintaining, or operating, or any combination of the foregoing,	6401
a county transit system pursuant to sections 306.01 to 306.13 of	6402
the Revised Code, or of making any payment to a board of county	6403
commissioners operating a transit system or a county transit	6404
board pursuant to section 306.06 of the Revised Code;	6405
(R) For the subdivision's share of the cost of acquiring	6406

or constructing any schools, forestry camps, detention	6407
facilities, or other facilities, or any combination thereof,	6408
under section 2151.65 or 2152.41 of the Revised Code or both of	6409
those sections;	6410
(S) For the prevention, control, and abatement of air	6411
pollution;	6412
(T) For maintaining and operating cemeteries;	6413
(U) For providing ambulance service, emergency medical	6414
service, or both;	6415
(V) For providing for the collection and disposal of	6416
garbage or refuse, including yard waste;	6417
(W) For the payment of the police officer employers'	6418
contribution or the firefighter employers' contribution required	6419
under sections 742.33 and 742.34 of the Revised Code;	6420
(X) For the construction and maintenance of a drainage	6421
improvement pursuant to section 6131.52 of the Revised Code;	6422
(Y) For providing or maintaining senior citizens services	6423
or facilities as authorized by section 307.694, 307.85, 505.70,	6424
or 505.706 or division (EE) of section 717.01 of the Revised	6425
Code;	6426
(Z) For the provision and maintenance of zoological park	6427
services and facilities as authorized under section 307.76 of	6428
the Revised Code;	6429
(AA) For the maintenance and operation of a free public	6430
museum of art, science, or history;	6431
(BB) For the establishment and operation of a 9-1-1	6432
system, as defined in section 128.01 of the Revised Code;	6433

(CC) For the purpose of acquiring, rehabilitating, or 6434
developing rail property or rail service. As used in this 6435
division, "rail property" and "rail service" have the same 6436
meanings as in section 4981.01 of the Revised Code. This 6437
division applies only to a county, township, or municipal 6438
corporation. 6439

(DD) For the purpose of acquiring property for, 6440
constructing, operating, and maintaining community centers as 6441
provided for in section 755.16 of the Revised Code; 6442

(EE) For the creation and operation of an office or joint 6443
office of economic development, for any economic development 6444
purpose of the office, and to otherwise provide for the 6445
establishment and operation of a program of economic development 6446
pursuant to sections 307.07 and 307.64 of the Revised Code, or 6447
to the extent that the expenses of a county land reutilization 6448
corporation organized under Chapter 1724. of the Revised Code 6449
are found by the board of county commissioners to constitute the 6450
promotion of economic development, for the payment of such 6451
operations and expenses; 6452

(FF) For the purpose of acquiring, establishing, 6453
constructing, improving, equipping, maintaining, or operating, 6454
or any combination of the foregoing, a township airport, landing 6455
field, or other air navigation facility pursuant to section 6456
505.15 of the Revised Code; 6457

(GG) For the payment of costs incurred by a township as a 6458
result of a contract made with a county pursuant to section 6459
505.263 of the Revised Code in order to pay all or any part of 6460
the cost of constructing, maintaining, repairing, or operating a 6461
water supply improvement; 6462

(HH) For a board of township trustees to acquire, other 6463
than by appropriation, an ownership interest in land, water, or 6464
wetlands, or to restore or maintain land, water, or wetlands in 6465
which the board has an ownership interest, not for purposes of 6466
recreation, but for the purposes of protecting and preserving 6467
the natural, scenic, open, or wooded condition of the land, 6468
water, or wetlands against modification or encroachment 6469
resulting from occupation, development, or other use, which may 6470
be styled as protecting or preserving "greenspace" in the 6471
resolution, notice of election, or ballot form. Except as 6472
otherwise provided in this division, land is not acquired for 6473
purposes of recreation, even if the land is used for 6474
recreational purposes, so long as no building, structure, or 6475
fixture used for recreational purposes is permanently attached 6476
or affixed to the land. Except as otherwise provided in this 6477
division, land that previously has been acquired in a township 6478
for these greenspace purposes may subsequently be used for 6479
recreational purposes if the board of township trustees adopts a 6480
resolution approving that use and no building, structure, or 6481
fixture used for recreational purposes is permanently attached 6482
or affixed to the land. The authorization to use greenspace land 6483
for recreational use does not apply to land located in a 6484
township that had a population, at the time it passed its first 6485
greenspace levy, of more than thirty-eight thousand within a 6486
county that had a population, at that time, of at least eight 6487
hundred sixty thousand. 6488

(II) For the support by a county of a crime victim 6489
assistance program that is provided and maintained by a county 6490
agency or a private, nonprofit corporation or association under 6491
section 307.62 of the Revised Code; 6492

(JJ) For any or all of the purposes set forth in divisions 6493

(I) and (J) of this section. This division applies only to a municipal corporation or a township.	6494 6495
(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.	6496 6497 6498
(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;	6499 6500
(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;	6501 6502 6503
(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold, and the operating expenses of, agricultural fairs operated by a county agricultural society or independent agricultural society under Chapter 1711. of the Revised Code. This division applies only to a county.	6504 6505 6506 6507 6508 6509
(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;	6510 6511 6512 6513
(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.	6514 6515
(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.	6516 6517 6518
(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural	6519 6520 6521

easements, as defined in section 5301.67 of the Revised Code, 6522
and to supervise and enforce the easements. 6523

(SS) For both of the purposes set forth in divisions (BB) 6524
and (KK) of this section. This division applies only to a 6525
county. 6526

(TT) For the maintenance and operation of a facility that 6527
is organized in whole or in part to promote the sciences and 6528
natural history under section 307.761 of the Revised Code. 6529

(UU) For the creation and operation of a county land 6530
reutilization corporation and for any programs or activities of 6531
the corporation found by the board of directors of the 6532
corporation to be consistent with the purposes for which the 6533
corporation is organized; 6534

(VV) For construction and maintenance of improvements and 6535
expenses of soil and water conservation district programs under 6536
Chapter 940. of the Revised Code; 6537

(WW) For the OSU extension fund created under section 6538
3335.35 of the Revised Code for the purposes prescribed under 6539
section 3335.36 of the Revised Code for the benefit of the 6540
citizens of a county. This division applies only to a county. 6541

(XX) For a municipal corporation that withdraws or 6542
proposes by resolution to withdraw from a regional transit 6543
authority under section 306.55 of the Revised Code to provide 6544
transportation services for the movement of persons within, 6545
from, or to the municipal corporation; 6546

(YY) For any combination of the purposes specified in 6547
divisions (NN), (VV), and (WW) of this section. This division 6548
applies only to a county. 6549

(ZZ) For any combination of the following purposes: the acquisition, construction, improvement, or maintenance of buildings, equipment, and supplies for police, firefighting, or emergency medical services; the construction, reconstruction, resurfacing, or repair of streets, roads, and bridges; or for general infrastructure projects. This division applies only to a township or municipal corporation.

(AAA) For any combination of the purposes specified in divisions (G), (K), (N), (O), (P), (X), (BB), and (MM) of this section, for the acquisition, construction or maintenance of county facilities, or for the acquisition of or improvements to land. This division applies only to a county.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following,

the increased rate shall be for a continuing period of time: 6579

(a) For the current expenses for a detention facility 6580
district, a district organized under section 2151.65 of the 6581
Revised Code, or a combined district organized under sections 6582
2151.65 and 2152.41 of the Revised Code; 6583

(b) For providing a county's share of the cost of 6584
maintaining and operating schools, district detention 6585
facilities, forestry camps, or other facilities, or any 6586
combination thereof, established under section 2151.65 or 6587
2152.41 of the Revised Code or under both of those sections. 6588

(3) When the additional rate is for either of the 6589
following, the increased rate may be for a continuing period of 6590
time: 6591

(a) For the purposes set forth in division (I), (J), (U), 6592
or (KK) of this section; 6593

(b) For the maintenance and operation of a joint 6594
recreation district. 6595

(4) When the increase is for the purpose or purposes set 6596
forth in division (D), (G), (H), (T), (Z), (CC), or (PP) of this 6597
section, the tax levy may be for any specified number of years 6598
or for a continuing period of time, as set forth in the 6599
resolution. 6600

(5) When the increase is for the purpose set forth in 6601
division (ZZ) or (AAA) of this section, the tax levy may be for 6602
any number of years not exceeding ten. 6603

A levy for one of the purposes set forth in division (G), 6604
(I), (J), or (U) of this section may be reduced pursuant to 6605
section 5705.261 or 5705.31 of the Revised Code. A levy for one 6606

of the purposes set forth in division (G), (I), (J), or (U) of 6607
this section may also be terminated or permanently reduced by 6608
the taxing authority if it adopts a resolution stating that the 6609
continuance of the levy is unnecessary and the levy shall be 6610
terminated or that the millage is excessive and the levy shall 6611
be decreased by a designated amount. 6612

A resolution of a detention facility district, a district 6613
organized under section 2151.65 of the Revised Code, or a 6614
combined district organized under both sections 2151.65 and 6615
2152.41 of the Revised Code may include both current expenses 6616
and other purposes, provided that the resolution shall apportion 6617
the annual rate of levy between the current expenses and the 6618
other purpose or purposes. The apportionment need not be the 6619
same for each year of the levy, but the respective portions of 6620
the rate actually levied each year for the current expenses and 6621
the other purpose or purposes shall be limited by the 6622
apportionment. 6623

Whenever a board of county commissioners, acting either as 6624
the taxing authority of its county or as the taxing authority of 6625
a sewer district or subdistrict created under Chapter 6117. of 6626
the Revised Code, by resolution declares it necessary to levy a 6627
tax in excess of the ten-mill limitation for the purpose of 6628
constructing, improving, or extending sewage disposal plants or 6629
sewage systems, the tax may be in effect for any number of years 6630
not exceeding twenty, and the proceeds of the tax, 6631
notwithstanding the general provisions of this section, may be 6632
used to pay debt charges on any obligations issued and 6633
outstanding on behalf of the subdivision for the purposes 6634
enumerated in this paragraph, provided that any such obligations 6635
have been specifically described in the resolution. 6636

A resolution adopted by the legislative authority of a 6637
municipal corporation that is for the purpose in division (XX) 6638
of this section may be combined with the purpose provided in 6639
section 306.55 of the Revised Code, by vote of two-thirds of all 6640
members of the legislative authority. The legislative authority 6641
may certify the resolution to the board of elections as a 6642
combined question. The question appearing on the ballot shall be 6643
as provided in section 5705.252 of the Revised Code. 6644

A levy for the purpose set forth in division (BB) of this 6645
section may be imposed in all or a portion of the territory of a 6646
subdivision. If the 9-1-1 system to be established and operated 6647
with levy funds excludes territory located within the 6648
subdivision, the resolution adopted under this section, or a 6649
resolution proposing to renew such a levy that was imposed in 6650
all of the territory of the subdivision, may describe the area 6651
served or to be served by the system and specify that the 6652
proposed tax would be imposed only in the areas receiving or to 6653
receive the service. Upon passage of such a resolution, the 6654
board of elections shall submit the question of the tax levy 6655
only to those electors residing in the area or areas in which 6656
the tax would be imposed. If the 9-1-1 system would serve the 6657
entire subdivision, the resolution shall not exclude territory 6658
from the tax levy. 6659

The resolution shall go into immediate effect upon its 6660
passage, and no publication of the resolution is necessary other 6661
than that provided for in the notice of election. 6662

When the electors of a subdivision or, in the case of a 6663
qualifying library levy for the support of a library association 6664
or private corporation, the electors of the association library 6665
district or, in the case of a 9-1-1 system levy serving only a 6666

portion of the territory of a subdivision, the electors of the 6667
portion of the subdivision in which the levy would be imposed 6668
have approved a tax levy under this section, the taxing 6669
authority of the subdivision may anticipate a fraction of the 6670
proceeds of the levy and issue anticipation notes in accordance 6671
with section 5705.191 or 5705.193 of the Revised Code. 6672

Sec. 5705.195. Within five days after the resolution is 6673
certified to the county auditor as provided by section 5705.194 6674
of the Revised Code, the auditor shall calculate and certify to 6675
the taxing authority the annual levy, expressed in dollars and 6676
cents for each one hundred dollars of valuation as well as in 6677
mills for each one dollar of valuation, throughout the life of 6678
the levy which will be required to produce the annual amount set 6679
forth in the resolution assuming that the amount of the tax list 6680
of such subdivision remains throughout the life of the levy the 6681
same as the amount of the tax list for the current year, and if 6682
this is not determined, the estimated amount submitted by the 6683
auditor to the county budget commission. ~~When considering the~~ 6684
~~tangible personal property component of the tax valuation of the~~ 6685
~~subdivision, the county auditor shall take into account the~~ 6686
~~assessment percentages prescribed in section 5711.22 of the~~ 6687
~~Revised Code. The tax commissioner may issue rules, orders, or~~ 6688
~~instructions directing how the assessment percentages must be~~ 6689
~~utilized.~~ 6690

Upon receiving the certification from the county auditor, 6691
if the taxing authority desires to proceed with the submission 6692
of the question it shall, not less than ninety days before the 6693
day of such election, certify its resolution, together with the 6694
amount of the average tax levy, expressed in dollars and cents 6695
for each one hundred dollars of valuation as well as in mills 6696
for each one dollar of valuation, estimated by the auditor, and 6697

the number of years the levy is to run to the board of elections 6698
of the county which shall prepare the ballots and make other 6699
necessary arrangements for the submission of the question to the 6700
voters of the subdivision. 6701

Sec. 5705.213. (A) (1) The board of education of any school 6702
district, at any time and by a vote of two-thirds of all of its 6703
members, may declare by resolution that the amount of taxes that 6704
may be raised within the ten-mill limitation will be 6705
insufficient to provide an adequate amount for the present and 6706
future requirements of the school district and that it is 6707
necessary to levy a tax in excess of that limitation for current 6708
expenses. The resolution also shall state that the question of 6709
the additional tax shall be submitted to the electors of the 6710
school district at a special election. The resolution shall 6711
specify, for each year the levy is in effect, the amount of 6712
money that the levy is proposed to raise, which may, for years 6713
after the first year the levy is made, be expressed in terms of 6714
a dollar or percentage increase over the prior year's amount. 6715
The resolution also shall specify that the purpose of the levy 6716
is for current expenses, the number of years during which the 6717
tax shall be in effect which may be for any number of years not 6718
exceeding ten, and the year in which the tax first is proposed 6719
to be levied. The resolution shall specify the date of holding 6720
the special election, which shall not be earlier than ninety- 6721
five days after the adoption and certification of the resolution 6722
to the county auditor and not earlier than ninety days after 6723
certification to the board of elections. The date of the 6724
election shall be consistent with the requirements of section 6725
3501.01 of the Revised Code. 6726

(2) The board of education, by a vote of two-thirds of all 6727
of its members, may adopt a resolution proposing to renew a tax 6728

levied under division (A) (1) of this section. Such a resolution 6729
shall provide for levying a tax and specify all of the 6730
following: 6731

(a) That the tax shall be called and designated on the 6732
ballot as a renewal levy; 6733

(b) The amount of the renewal tax, which shall be no more 6734
than the amount of tax levied during the last year the tax being 6735
renewed is authorized to be in effect; 6736

(c) The number of years, not to exceed ten, that the 6737
renewal tax will be levied, or that it will be levied for a 6738
continuing period of time; 6739

(d) That the purpose of the renewal levy is for current 6740
expenses; 6741

(e) Subject to the certification and notification 6742
requirements of section 5705.251 of the Revised Code, that the 6743
question of the renewal levy shall be submitted to the electors 6744
of the school district at the general election held during the 6745
last year the tax being renewed may be extended on the real and 6746
public utility property tax list and duplicate or at a special 6747
election held during the ensuing year. 6748

(3) A resolution adopted under division (A) (1) or (2) of 6749
this section shall go into immediate effect upon its adoption 6750
and no publication of the resolution is necessary other than 6751
that provided for in the notice of election. Immediately after 6752
its adoption, a copy of the resolution shall be certified to the 6753
county auditor of the proper county, who shall, within five 6754
days, calculate and certify to the board of education the 6755
estimated levy, for the first year, and for each subsequent year 6756
for which the tax is proposed to be in effect. The estimates 6757

shall be made both in mills for each dollar of valuation, and in 6758
dollars and cents for each one hundred dollars of valuation. In 6759
making the estimates, the auditor shall assume that the amount 6760
of the tax list remains throughout the life of the levy, the 6761
same as the tax list for the current year. If the tax list for 6762
the current year is not determined, the auditor shall base the 6763
auditor's estimates on the estimated amount of the tax list for 6764
the current year as submitted to the county budget commission. 6765

If the board desires to proceed with the submission of the 6766
question, it shall certify its resolution, with the estimated 6767
tax levy expressed in mills and dollars and cents per hundred 6768
dollars of valuation for each year that the tax is proposed to 6769
be in effect, to the board of elections of the proper county in 6770
the manner provided by division (A) of section 5705.251 of the 6771
Revised Code. Section 5705.251 of the Revised Code shall govern 6772
the arrangements for the submission of the question and other 6773
matters concerning the election to which that section refers. 6774
The election shall be held on the date specified in the 6775
resolution. If a majority of the electors voting on the question 6776
so submitted in an election vote in favor of the tax, and if the 6777
tax is authorized to be levied for the current year, the board 6778
of education immediately may make the additional levy necessary 6779
to raise the amount specified in the resolution or a lesser 6780
amount for the purpose stated in the resolution. 6781

(4) The submission of questions to the electors under this 6782
section is subject to the limitation on the number of election 6783
dates established by section 5705.214 of the Revised Code. 6784

(B) Notwithstanding ~~sections~~ section 133.30 and ~~133.301~~ of 6785
the Revised Code, after the approval of a tax to be levied in 6786
the current or the succeeding year and prior to the time when 6787

the first tax collection from that levy can be made, the board 6788
of education may anticipate a fraction of the proceeds of the 6789
levy and issue anticipation notes in an amount not to exceed 6790
fifty per cent of the total estimated proceeds of the levy to be 6791
collected during the first year of the levy. The notes shall be 6792
sold as provided in Chapter 133. of the Revised Code. If 6793
anticipation notes are issued, they shall mature serially and in 6794
substantially equal amounts during each year over a period not 6795
to exceed five years; and the amount necessary to pay the 6796
interest and principal as the anticipation notes mature shall be 6797
deemed appropriated for those purposes from the levy, and 6798
appropriations from the levy by the board of education shall be 6799
limited each fiscal year to the balance available in excess of 6800
that amount. 6801

If the auditor of state has certified a deficit pursuant 6802
to section 3313.483 of the Revised Code, the notes authorized 6803
under this section may be sold in accordance with Chapter 133. 6804
of the Revised Code, except that the board may sell the notes 6805
after providing a reasonable opportunity for competitive 6806
bidding. 6807

Sec. 5705.252. (A) If the legislative authority of a 6808
municipal corporation adopts a resolution for the purposes 6809
provided in section 306.55 of the Revised Code and division (XX) 6810
of section 5705.19 of the Revised Code and certifies the 6811
resolution to the board of elections as a combined question, the 6812
question appearing on the ballot shall read: 6813

"Shall the territory within the (name of municipal 6814
corporation) be withdrawn from (name of regional transit 6815
authority) and shall an additional tax be levied for the benefit 6816
of (name of municipal corporation) for the purpose 6817

of providing transportation services for the movement of persons 6818
within, from, or to the (name of municipal corporation) 6819
at a rate not exceeding mills for each one dollar of 6820
valuation, which amounts to (rate expressed in dollars 6821
and cents) for each one hundred dollars of valuation, for 6822
(number of years the levy is to run)?" 6823

(B) If the board of trustees of a township adopts a 6824
resolution for the purposes provided in sections 306.55 and 6825
5705.72 of the Revised Code and certifies the resolution to the 6826
board of elections as a combined question, the question 6827
appearing on the ballot in the unincorporated area of the 6828
township shall read: 6829

"Shall the territory within the unincorporated area 6830
of (name of township) be withdrawn from (name of 6831
regional transit authority) and shall an additional tax be 6832
levied for the benefit of the unincorporated area of 6833
(name of township) for the purpose of providing transportation 6834
services for the movement of persons within, from, or to the 6835
unincorporated area of (name of township) at a rate not 6836
exceeding mills for each one dollar of valuation, which 6837
amounts to (rate expressed in dollars and cents) for each 6838
one hundred dollars of valuation, for (number of years 6839
the levy is to run)?" 6840

Sec. 5705.29. This section does not apply to a subdivision 6841
or taxing unit for which the county budget commission has waived 6842
the requirement to adopt a tax budget pursuant to section 6843
5705.281 of the Revised Code. The tax budget shall present the 6844
following information in such detail as is prescribed by the 6845
auditor of state: 6846

(A) (1) A statement of the necessary current operating 6847

expenses for the ensuing fiscal year for each department and 6848
division of the subdivision, classified as to personal services 6849
and other expenses, and the fund from which such expenditures 6850
are to be made. Except in the case of a school district, this 6851
estimate may include a contingent expense not designated for any 6852
particular purpose, and not to exceed three per cent of the 6853
total amount of appropriations for current expenses. In the case 6854
of a school district, this estimate may include a contingent 6855
expense not designated for any particular purpose and not to 6856
exceed thirteen per cent of the total amount of appropriations 6857
for current expenses. 6858

(2) A statement of the expenditures for the ensuing fiscal 6859
year necessary for permanent improvements, exclusive of any 6860
expense to be paid from bond issues, classified as to the 6861
improvements contemplated by the subdivision and the fund from 6862
which such expenditures are to be made; 6863

(3) The amounts required for the payment of final 6864
judgments; 6865

(4) A statement of expenditures for the ensuing fiscal 6866
year necessary for any purpose for which a special levy is 6867
authorized, and the fund from which such expenditures are to be 6868
made; 6869

(5) Comparative statements, so far as possible, in 6870
parallel columns of corresponding items of expenditures for the 6871
current fiscal year and the two preceding fiscal years. 6872

(B) (1) An estimate of receipts from other sources than the 6873
general property tax during the ensuing fiscal year, which shall 6874
include an estimate of unencumbered balances at the end of the 6875
current fiscal year, and the funds to which such estimated 6876

receipts are credited; 6877

(2) The amount each fund requires from the general 6878
property tax, which shall be the difference between the 6879
contemplated expenditure from the fund and the estimated 6880
receipts, as provided in this section. The section of the 6881
Revised Code under which the tax is authorized shall be set 6882
forth. 6883

(3) Comparative statements, so far as possible, in 6884
parallel columns of taxes and other revenues for the current 6885
fiscal year and the two preceding fiscal years. 6886

(C) (1) The amount required for debt charges; 6887

(2) The estimated receipts from sources other than the tax 6888
levy for payment of such debt charges, including the proceeds of 6889
refunding bonds to be issued to refund bonds maturing in the 6890
next succeeding fiscal year; 6891

(3) The net amount for which a tax levy shall be made, 6892
classified as to bonds authorized and issued prior to January 1, 6893
1922, and those authorized and issued subsequent to such date, 6894
and as to what portion of the levy will be within and what in 6895
excess of the ten-mill limitation. 6896

(D) An estimate of amounts from taxes authorized to be 6897
levied in excess of the ten-mill limitation on the tax rate, and 6898
the fund to which such amounts will be credited, together with 6899
the sections of the Revised Code under which each such tax is 6900
exempted from all limitations on the tax rate. 6901

(E) (1) A board of education may include in its budget for 6902
the fiscal year in which a levy proposed under section 5705.194, 6903
5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy 6904
proposed under section 5748.09, or the original levy under 6905

section 5705.212 of the Revised Code is first extended on the 6906
tax list and duplicate an estimate of expenditures to be known 6907
as a voluntary contingency reserve balance, which shall not be 6908
greater than twenty-five per cent of the total amount of the 6909
levy estimated to be available for appropriation in such year. 6910

(2) A board of education may include in its budget for the 6911
fiscal year following the year in which a levy proposed under 6912
section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a 6913
property tax levy proposed under section 5748.09, or the 6914
original levy under section 5705.212 of the Revised Code is 6915
first extended on the tax list and duplicate an estimate of 6916
expenditures to be known as a voluntary contingency reserve 6917
balance, which shall not be greater than twenty per cent of the 6918
amount of the levy estimated to be available for appropriation 6919
in such year. 6920

(3) Except as provided in division (E)(4) of this section, 6921
the full amount of any reserve balance the board includes in its 6922
budget shall be retained by the county auditor and county 6923
treasurer out of the first semiannual settlement of taxes until 6924
the beginning of the next succeeding fiscal year, and thereupon, 6925
with the depository interest apportioned thereto, it shall be 6926
turned over to the board of education, to be used for the 6927
purposes of such fiscal year. 6928

(4) A board of education, by a two-thirds vote of all 6929
members of the board, may appropriate any amount withheld as a 6930
voluntary contingency reserve balance during the fiscal year for 6931
any lawful purpose, provided that prior to such appropriation 6932
the board of education has authorized the expenditure of all 6933
amounts appropriated for contingencies under section 5705.40 of 6934
the Revised Code. Upon request by the board of education, the 6935

county auditor shall draw a warrant on the district's account in 6936
the county treasury payable to the district in the amount 6937
requested. 6938

~~(F) (1) A board of education may include a spending reserve 6939
in its budget for fiscal years ending on or before June 30, 6940
2002. The spending reserve shall consist of an estimate of 6941
expenditures not to exceed the district's spending reserve 6942
balance. A district's spending reserve balance is the amount by 6943
which the designated percentage of the district's estimated 6944
personal property taxes to be settled during the calendar year 6945
in which the fiscal year ends exceeds the estimated amount of 6946
personal property taxes to be so settled and received by the 6947
district during that fiscal year. Moneys from a spending reserve 6948
shall be appropriated in accordance with section 133.301 of the 6949
Revised Code. 6950~~

~~(2) For the purposes of computing a school district's 6951
spending reserve balance for a fiscal year, the designated 6952
percentage shall be as follows: 6953~~

Fiscal year ending in:	Designated percentage	
1998	50%	6955
1999	40%	6956
2000	30%	6957
2001	20%	6958
2002	10%	6959

~~(G) Except as otherwise provided in this division, the 6960
county budget commission shall not reduce the taxing authority 6961
of a subdivision as a result of the creation of a reserve 6962
balance account. Except as otherwise provided in this division, 6963
the county budget commission shall not consider the amount in a 6964~~

reserve balance account of a township, county, or municipal 6965
corporation as an unencumbered balance or as revenue for the 6966
purposes of division (E) (3) or (4) of section 5747.51 of the 6967
Revised Code. The county budget commission may require 6968
documentation of the reasonableness of the reserve balance held 6969
in any reserve balance account. The commission shall consider 6970
any amount in a reserve balance account that it determines to be 6971
unreasonable as unencumbered and as revenue for the purposes of 6972
section 5747.51 of the Revised Code and may take such amounts 6973
into consideration when determining whether to reduce the taxing 6974
authority of a subdivision. 6975

Sec. 5705.315. With respect to annexations granted on or 6976
~~after the effective date of this section March 27, 2002,~~ and 6977
during any tax year or years within which any territory annexed 6978
to a municipal corporation is part of a township, the minimum 6979
levy for the municipal corporation and township under section 6980
5705.31 of the Revised Code shall not be diminished, except that 6981
in the annexed territory and only during those tax year or 6982
years, and in order to preserve the minimum levies of 6983
overlapping subdivisions under section 5705.31 of the Revised 6984
Code so that the full amount of taxes within the ten-mill 6985
limitation may be levied to the extent possible, the minimum 6986
levy of the municipal corporation or township shall be the 6987
lowest of the following amounts: 6988

(A) An amount that when added to the minimum levies of the 6989
other overlapping subdivisions equals ten mills; 6990

(B) An amount equal to the minimum levy of the municipal 6991
corporation or township, provided the total minimum levy does 6992
not exceed ten mills. 6993

The municipal corporation and the township may enter into 6994

an agreement to determine the municipal corporation's and the township's minimum levy under this section. If it cannot be determined what minimum levy is available to each and no agreement has been entered into by the municipal corporation and township, the municipal corporation and township shall each receive one-half of the millage available for use within the portion of the territory annexed to the municipal corporation that remains part of the township.

Sec. 5705.34. When the budget commission has completed its work with respect to a tax budget or other information required to be provided under section 5705.281 of the Revised Code, it shall certify its action to the taxing authority, together with an estimate by the county auditor of the rate of each tax necessary to be levied by the taxing authority within its subdivision, taxing unit, or, in the case of a qualifying library levy, within the library district or association library district, and what part thereof is in excess of, and what part within, the ten-mill tax limitation. The certification shall also indicate the date on which each tax levied by the taxing authority will expire.

If a taxing authority levies a tax for a fixed sum of money or to pay debt charges for the tax year for which the tax budget is prepared, and a payment on account of that tax is payable to the taxing authority for the tax year under section 5709.92 or 5709.93~~7~~ of the Revised Code, the county auditor, when estimating the rate at which the tax shall be levied in the current year, shall estimate the rate necessary to raise the required sum less the estimated amount of any such payments made for the tax year to a taxing unit for fixed-sum levies under those sections. The estimated rate shall be the rate of the levy that the budget commission certifies with its action under this

section. 7026

Each taxing authority, by ordinance or resolution, shall 7027
authorize the necessary tax levies and certify them to the 7028
county auditor before the first day of October in each year, or 7029
at such later date as is approved by the tax commissioner, 7030
except that the certification by the legislative authority of 7031
the city of Cincinnati or by a board of education shall be made 7032
by the first day of April or at such later date as is approved 7033
by the commissioner, and except that a township board of park 7034
commissioners that is appointed by the board of township 7035
trustees and oversees a township park district that contains 7036
only unincorporated territory shall authorize only those taxes 7037
approved by, and only at the rate approved by, the board of 7038
township trustees as required by division (C) of section 511.27 7039
of the Revised Code. If the levying of a tax to be placed on the 7040
duplicate of the current year is approved by electors under 7041
sections 5705.01 to 5705.47 of the Revised Code; if the rate of 7042
a school district tax is increased due to the repeal of a school 7043
district income tax and property tax rate reduction at an 7044
election held pursuant to section 5748.04 of the Revised Code; 7045
or if refunding bonds to refund all or a part of the principal 7046
of bonds payable from a tax levy for the ensuing fiscal year are 7047
issued or sold and in the process of delivery, the budget 7048
commission shall reconsider and revise its action on the budget 7049
of the subdivision or school library district for whose benefit 7050
the tax is to be levied after the returns of such election are 7051
fully canvassed, or after the issuance or sale of such refunding 7052
bonds is certified to it. 7053

Sec. 5705.35. (A) The certification of the budget 7054
commission to the taxing authority of each subdivision or taxing 7055
unit, as set forth in section 5705.34 of the Revised Code, shall 7056

show the various funds of such subdivisions other than funds to 7057
be created by transfer and shall be filed by the county budget 7058
commission with such taxing authority on or before the first day 7059
of March in the case of school districts and the city of 7060
Cincinnati and on or before the first day of September in each 7061
year in the case of all other taxing authorities. There shall be 7062
set forth on the credit side of each fund the estimated 7063
unencumbered balances and receipts, and if a tax is to be levied 7064
for such fund, the estimated revenue to be derived therefrom, 7065
the rate of the levy, and what portion thereof is within, and 7066
what in excess of, the ten-mill tax limitation, and on the debit 7067
side, the total appropriations that may be made therefrom. 7068
Subject to division ~~(G)~~ (F) of section 5705.29 of the Revised 7069
Code, any reserve balance in an account established under 7070
section 5705.13 of the Revised Code for the purpose described in 7071
division (A)(1) of that section, and the principal of a 7072
nonexpendable trust fund established under section 5705.131 of 7073
the Revised Code and any additions to principal arising from 7074
sources other than the reinvestment of investment earnings 7075
arising from that fund, are not unencumbered balances for the 7076
purposes of this section. The balance in a reserve balance 7077
account established under section 5705.132 of the Revised Code 7078
is not an unencumbered balance for the purposes of this 7079
division. 7080

There shall be attached to the certification a summary, 7081
which shall be known as the "official certificate of estimated 7082
resources," that shall state the total estimated resources of 7083
each fund of the subdivision that are available for 7084
appropriation in the fiscal year, other than funds to be created 7085
by transfer, and a statement of the amount of the total tax 7086
duplicate of the school district to be used in the collection of 7087

taxes for the following calendar year. Before the end of the 7088
fiscal year, the taxing authority of each subdivision and other 7089
taxing unit shall revise its tax budget, if one was adopted, so 7090
that the total contemplated expenditures from any fund during 7091
the ensuing fiscal year will not exceed the total appropriations 7092
that may be made from such fund, as determined by the budget 7093
commission in its certification; and such revised budget shall 7094
be the basis of the annual appropriation measure. 7095

~~(B) (1) Except as otherwise provided in division (B) (2) of~~ 7096
~~this section, revenues~~ Revenue from real property taxes 7097
scheduled to be settled on or before the tenth day of August and 7098
the fifteenth day of February of a fiscal year under divisions 7099
(A) and (C) of section 321.24 of the Revised Code, ~~and revenue~~ 7100
~~from taxes levied on personal property used in business~~ 7101
~~scheduled to be settled on or before the thirty first day of~~ 7102
~~October and the thirtieth day of June of a fiscal year under~~ 7103
~~divisions (B) and (D) of section 321.24 of the Revised Code~~ 7104
shall not be available for appropriation by a board of education 7105
prior to the fiscal year in which such latest scheduled 7106
settlement date occurs, except that moneys advanced to the 7107
treasurer of a board of education under division (A) (2) (b) of 7108
section 321.34 of the Revised Code shall be available for 7109
appropriation in the fiscal year in which they are paid to the 7110
treasurer under such section. If the date for any settlement of 7111
taxes is extended under division (E) of section 321.24 of the 7112
Revised Code, the latest date set forth in divisions (A) to (D) 7113
of that section shall be used to determine in which fiscal year 7114
the revenues are first available for appropriation. 7115

~~(2) Revenues available for appropriation by a school~~ 7116
~~district during a fiscal year may include amounts borrowed in~~ 7117
~~that fiscal year under section 133.301 of the Revised Code in~~ 7118

~~anticipation of the collection of taxes that are to be included~~ 7119
~~in the settlements made under divisions (C) and (D) of section~~ 7120
~~321.24 of the Revised Code in the ensuing fiscal year.~~ 7121

Sec. 5705.36. (A) (1) On or about the first day of each 7122
fiscal year, the fiscal officer of each subdivision and other 7123
taxing unit shall certify to the county auditor the total amount 7124
from all sources available for expenditures from each fund set 7125
up in the tax budget or, if adoption of a tax budget was waived 7126
under section 5705.281 of the Revised Code, from each fund 7127
created by or on behalf of the taxing authority. The amount 7128
certified shall include any unencumbered balances that existed 7129
at the end of the preceding year, excluding any of the 7130
following: 7131

(a) Subject to division ~~(G)~~ (F) of section 5705.29 of the 7132
Revised Code, any reserve balance in an account established 7133
under section 5705.13 of the Revised Code for the purpose 7134
described in division (A) (1) of that section; 7135

(b) The principal of a nonexpendable trust fund 7136
established under section 5705.131 of the Revised Code and any 7137
additions to principal arising from sources other than the 7138
reinvestment of investment earnings arising from that fund; 7139

(c) The balance in a reserve balance account established 7140
under section 5705.132 of the Revised Code. 7141

A school district's certification shall separately show 7142
the amount of any notes and unpaid and outstanding expenses on 7143
the preceding thirtieth day of June that are to be paid from 7144
property taxes that are to be settled during the current fiscal 7145
year under divisions (C) and (D) of section 321.24 of the 7146
Revised Code, ~~and the amount of any spending reserve available~~ 7147

~~for appropriation during the current fiscal year under section~~ 7148
~~133.301 of the Revised Code.~~ The budget commission, taking into 7149
consideration the balances and revenues to be derived from 7150
taxation and other sources, shall revise its estimate of the 7151
amounts that will be credited to each fund from such sources, 7152
and shall certify to the taxing authority of each subdivision an 7153
amended official certificate of estimated resources. 7154

(2) Subject to divisions (A) (3) and (4) of this section, 7155
upon a determination by the fiscal officer of a subdivision that 7156
the revenue to be collected by the subdivision will be greater 7157
or less than the amount included in an official certificate, the 7158
fiscal officer may certify the amount of the deficiency or 7159
excess to the commission, and if the commission determines that 7160
the fiscal officer's certification is reasonable, the commission 7161
shall certify an amended official certificate reflecting the 7162
deficiency or excess. 7163

(3) Upon a determination by the fiscal officer of a 7164
subdivision that the revenue to be collected by the subdivision 7165
will be greater than the amount included in an official 7166
certificate and the legislative authority intends to appropriate 7167
and expend the excess revenue, the fiscal officer shall certify 7168
the amount of the excess to the commission, and if the 7169
commission determines that the fiscal officer's certification is 7170
reasonable, the commission shall certify an amended official 7171
certificate reflecting the excess. 7172

(4) Upon a determination by the fiscal officer of a 7173
subdivision that the revenue to be collected by the subdivision 7174
will be less than the amount included in an official certificate 7175
and that the amount of the deficiency will reduce available 7176
resources below the level of current appropriations, the fiscal 7177

officer shall certify the amount of the deficiency to the 7178
commission, and the commission shall certify an amended 7179
certificate reflecting the deficiency. 7180

(5) The total appropriations made during the fiscal year 7181
from any fund shall not exceed the amount set forth as available 7182
for expenditure from such fund in the official certificate of 7183
estimated resources, or any amendment thereof, certified prior 7184
to the making of the appropriation or supplemental 7185
appropriation. 7186

(B) At the time of settlement of taxes against which notes 7187
have been issued under ~~section 133.301 or~~ division (D) of 7188
section 133.10 of the Revised Code and at the time a tax 7189
duplicate is delivered pursuant to section 319.28 or 319.29 of 7190
the Revised Code, the county auditor shall determine whether the 7191
total amount to be distributed to each school district from such 7192
settlement or duplicate, when combined with the amounts to be 7193
distributed from any subsequent settlement, will increase or 7194
decrease the amount available for appropriation during the 7195
current fiscal year from any fund. The county auditor shall 7196
certify this finding to the budget commission, which shall 7197
certify an amended official certificate reflecting the finding 7198
or certify to the school district that no amended certificate 7199
needs to be issued. 7200

Sec. 5705.49. Wherever in the Revised Code the taxing 7201
~~authorities authority of any subdivision, as defined in section~~ 7202
~~5705.01 of the Revised Code, are~~ is authorized to levy taxes on 7203
the taxable property within a subdivision, or, in the case of a 7204
qualifying library levy, within a library district or 7205
association library district, such authority shall extend only 7206
to the levy of taxes on the taxable real and public utility 7207

property listed on general tax lists and duplicates provided for 7208
by section 319.28 of the Revised Code. Where the amount of 7209
indebtedness of any subdivision is limited by law with reference 7210
to the tax valuation or aggregate value of the property on the 7211
tax list and duplicate of such subdivision, such limitation 7212
shall be measured by the property listed on such general tax 7213
lists and duplicates in such subdivision. 7214

Sec. 5709.201. (A) Except as provided in divisions (C) (4) 7215
(a) and (c) of section 5709.22 and division (F) of section 7216
5709.25 of the Revised Code, a certificate issued under section 7217
5709.21, 5709.31, 5709.46, or 6111.31 of the Revised Code that 7218
was valid and in effect on ~~the effective date of this section~~ 7219
June 26, 2003, shall continue in effect subject to the law as it 7220
existed before that ~~effective~~ date. Division (C) (4) (b) of 7221
section 5709.22 of the Revised Code does not apply to any 7222
certificate issued by the tax commissioner before July 1, 2003. 7223

(B) Any applications pending on ~~the effective date of this~~ 7224
~~section~~ June 26, 2003, for which a certificate had not been 7225
issued on or before that ~~effective~~ date under section 6111.31 of 7226
the Revised Code shall be transferred to the tax commissioner 7227
for further administering. Sections 5709.20 to 5709.27 of the 7228
Revised Code apply to such pending applications, excluding the 7229
requirement of section 5709.212 of the Revised Code that 7230
applicants must pay the fee. 7231

(C) For applications pending on ~~the effective date of this~~ 7232
~~section~~ June 26, 2003, division (D) of section 5709.25 of the 7233
Revised Code allowing the commissioner to assess any additional 7234
tax notwithstanding any other time limitations imposed by law on 7235
the denied portion of the applicant's claim applies only to tax 7236
periods that would otherwise be open to assessment on that 7237

effective date.	7238
Sec. 5709.40. (A) As used in this section:	7239
(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.	7240 7241
(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.	7242 7243 7244
(3) "Housing renovation" means a project carried out for residential purposes.	7245 7246
(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.	7247 7248 7249 7250 7251
(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:	7252 7253 7254 7255
(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;	7256 7257 7258 7259 7260 7261
(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.	7262 7263 7264 7265

- (c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.
- (d) The district is a blighted area.
- (e) The district is in a situational distress area as designated by the director of development services under division (F) of section 122.23 of the Revised Code.
- (f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.
- (g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.
- (6) "Overlay" means an area of not more than three hundred acres that is a square, or that is a rectangle having two longer sides that are not more than twice the length of the two shorter sides, that the legislative authority of a municipal corporation delineates on a map of a proposed incentive district.
- (7) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.
- (8) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer
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lines; the continued maintenance of those public roads and 7295
highways and water and sewer lines; environmental remediation; 7296
land acquisition, including acquisition in aid of industry, 7297
commerce, distribution, or research; demolition, including 7298
demolition on private property when determined to be necessary 7299
for economic development purposes; stormwater and flood 7300
remediation projects, including such projects on private 7301
property when determined to be necessary for public health, 7302
safety, and welfare; the provision of gas, electric, and 7303
communications service facilities, including the provision of 7304
gas or electric service facilities owned by nongovernmental 7305
entities when such improvements are determined to be necessary 7306
for economic development purposes; and the enhancement of public 7307
waterways through improvements that allow for greater public 7308
access. 7309

(B) The legislative authority of a municipal corporation, 7310
by ordinance, may declare improvements to certain parcels of 7311
real property located in the municipal corporation to be a 7312
public purpose. Improvements with respect to a parcel that is 7313
used or to be used for residential purposes may be declared a 7314
public purpose under this division only if the parcel is located 7315
in a blighted area of an impacted city. For this purpose, 7316
"parcel that is used or to be used for residential purposes" 7317
means a parcel that, as improved, is used or to be used for 7318
purposes that would cause the tax commissioner to classify the 7319
parcel as residential property in accordance with rules adopted 7320
by the commissioner under section 5713.041 of the Revised Code. 7321
Except with the approval under division (D) of this section of 7322
the board of education of each city, local, or exempted village 7323
school district within which the improvements are located, not 7324
more than seventy-five per cent of an improvement thus declared 7325

to be a public purpose may be exempted from real property 7326
taxation for a period of not more than ten years. The ordinance 7327
shall specify the percentage of the improvement to be exempted 7328
from taxation and the life of the exemption. 7329

An ordinance adopted or amended under this division shall 7330
designate the specific public infrastructure improvements made, 7331
to be made, or in the process of being made by the municipal 7332
corporation that directly benefit, or that once made will 7333
directly benefit, the parcels for which improvements are 7334
declared to be a public purpose. The service payments provided 7335
for in section 5709.42 of the Revised Code shall be used to 7336
finance the public infrastructure improvements designated in the 7337
ordinance, for the purpose described in division (D)(1) of this 7338
section or as provided in section 5709.43 of the Revised Code. 7339

(C) (1) The legislative authority of a municipal 7340
corporation may adopt an ordinance creating an incentive 7341
district and declaring improvements to parcels within the 7342
district to be a public purpose and, except as provided in 7343
division (C) (2) of this section, exempt from taxation as 7344
provided in this section, but no legislative authority of a 7345
municipal corporation that has a population that exceeds twenty- 7346
five thousand, as shown by the most recent federal decennial 7347
census, shall adopt an ordinance that creates an incentive 7348
district if the sum of the taxable value of real property in the 7349
proposed district for the preceding tax year and the taxable 7350
value of all real property in the municipal corporation that 7351
would have been taxable in the preceding year were it not for 7352
the fact that the property was in an existing incentive district 7353
and therefore exempt from taxation exceeds twenty-five per cent 7354
of the taxable value of real property in the municipal 7355
corporation for the preceding tax year. The ordinance shall 7356

delineate the boundary of the proposed district and specifically 7357
identify each parcel within the district. A proposed district 7358
may not include any parcel that is or has been exempted from 7359
taxation under division (B) of this section or that is or has 7360
been within another district created under this division. An 7361
ordinance may create more than one such district, and more than 7362
one ordinance may be adopted under division (C) (1) of this 7363
section. 7364

(2) (a) Not later than thirty days prior to adopting an 7365
ordinance under division (C) (1) of this section, if the 7366
municipal corporation intends to apply for exemptions from 7367
taxation under section 5709.911 of the Revised Code on behalf of 7368
owners of real property located within the proposed incentive 7369
district, the legislative authority of the municipal corporation 7370
shall conduct a public hearing on the proposed ordinance. Not 7371
later than thirty days prior to the public hearing, the 7372
legislative authority shall give notice of the public hearing 7373
and the proposed ordinance by first class mail to every real 7374
property owner whose property is located within the boundaries 7375
of the proposed incentive district that is the subject of the 7376
proposed ordinance. The notice shall include a map of the 7377
proposed incentive district on which the legislative authority 7378
of the municipal corporation shall have delineated an overlay. 7379
The notice shall inform the property owner of the owner's right 7380
to exclude the owner's property from the incentive district if 7381
the owner's entire parcel of property will not be located within 7382
the overlay, by submitting a written response in accordance with 7383
division (C) (2) (b) of this section. The notice also shall 7384
include information detailing the required contents of the 7385
response, the address to which the response may be mailed, and 7386
the deadline for submitting the response. 7387

(b) Any owner of real property located within the 7388
boundaries of an incentive district proposed under division (C) 7389
(1) of this section whose entire parcel of property is not 7390
located within the overlay may exclude the property from the 7391
proposed incentive district by submitting a written response to 7392
the legislative authority of the municipal corporation not later 7393
than forty-five days after the postmark date on the notice 7394
required under division (C) (2) (a) of this section. The response 7395
shall be sent by first class mail or delivered in person at a 7396
public hearing held by the legislative authority under division 7397
(C) (2) (a) of this section. The response shall conform to any 7398
content requirements that may be established by the municipal 7399
corporation and included in the notice provided under division 7400
(C) (2) (a) of this section. In the response, property owners may 7401
identify a parcel by street address, by the manner in which it 7402
is identified in the ordinance, or by other means allowing the 7403
identity of the parcel to be ascertained. 7404

(c) Before adopting an ordinance under division (C) (1) of 7405
this section, the legislative authority of a municipal 7406
corporation shall amend the ordinance to exclude any parcel 7407
located wholly or partly outside the overlay for which a written 7408
response has been submitted under division (C) (2) (b) of this 7409
section. A municipal corporation shall not apply for exemptions 7410
from taxation under section 5709.911 of the Revised Code for any 7411
such parcel, and service payments may not be required from the 7412
owner of the parcel. Improvements to a parcel excluded from an 7413
incentive district under this division may be exempted from 7414
taxation under division (B) of this section pursuant to an 7415
ordinance adopted under that division or under any other section 7416
of the Revised Code under which the parcel qualifies. 7417

(3) (a) An ordinance adopted under division (C) (1) of this 7418

section shall specify the life of the incentive district and the 7419
percentage of the improvements to be exempted, shall designate 7420
the public infrastructure improvements made, to be made, or in 7421
the process of being made, that benefit or serve, or, once made, 7422
will benefit or serve parcels in the district. The ordinance 7423
also shall identify one or more specific projects being, or to 7424
be, undertaken in the district that place additional demand on 7425
the public infrastructure improvements designated in the 7426
ordinance. The project identified may, but need not be, the 7427
project under division (C) (3) (b) of this section that places 7428
real property in use for commercial or industrial purposes. 7429
Except as otherwise permitted under that division, the service 7430
payments provided for in section 5709.42 of the Revised Code 7431
shall be used to finance the designated public infrastructure 7432
improvements, for the purpose described in division (D) (1), (E), 7433
or (F) of this section, or as provided in section 5709.43 of the 7434
Revised Code. 7435

An ordinance adopted under division (C) (1) of this section 7436
on or after March 30, 2006, shall not designate police or fire 7437
equipment as public infrastructure improvements, and no service 7438
payment provided for in section 5709.42 of the Revised Code and 7439
received by the municipal corporation under the ordinance shall 7440
be used for police or fire equipment. 7441

(b) An ordinance adopted under division (C) (1) of this 7442
section may authorize the use of service payments provided for 7443
in section 5709.42 of the Revised Code for the purpose of 7444
housing renovations within the incentive district, provided that 7445
the ordinance also designates public infrastructure improvements 7446
that benefit or serve the district, and that a project within 7447
the district places real property in use for commercial or 7448
industrial purposes. Service payments may be used to finance or 7449

support loans, deferred loans, and grants to persons for the 7450
purpose of housing renovations within the district. The 7451
ordinance shall designate the parcels within the district that 7452
are eligible for housing renovation. The ordinance shall state 7453
separately the amounts or the percentages of the expected 7454
aggregate service payments that are designated for each public 7455
infrastructure improvement and for the general purpose of 7456
housing renovations. 7457

(4) Except with the approval of the board of education of 7458
each city, local, or exempted village school district within the 7459
territory of which the incentive district is or will be located, 7460
and subject to division (E) of this section, the life of an 7461
incentive district shall not exceed ten years, and the 7462
percentage of improvements to be exempted shall not exceed 7463
seventy-five per cent. With approval of the board of education, 7464
the life of a district may be not more than thirty years, and 7465
the percentage of improvements to be exempted may be not more 7466
than one hundred per cent. The approval of a board of education 7467
shall be obtained in the manner provided in division (D) of this 7468
section. 7469

(D) (1) If the ordinance declaring improvements to a parcel 7470
to be a public purpose or creating an incentive district 7471
specifies that payments in lieu of taxes provided for in section 7472
5709.42 of the Revised Code shall be paid to the city, local, or 7473
exempted village, and joint vocational school district in which 7474
the parcel or incentive district is located in the amount of the 7475
taxes that would have been payable to the school district if the 7476
improvements had not been exempted from taxation, the percentage 7477
of the improvement that may be exempted from taxation may exceed 7478
seventy-five per cent, and the exemption may be granted for up 7479
to thirty years, without the approval of the board of education 7480

as otherwise required under division (D) (2) of this section. 7481

(2) Improvements with respect to a parcel may be exempted 7482
from taxation under division (B) of this section, and 7483
improvements to parcels within an incentive district may be 7484
exempted from taxation under division (C) of this section, for 7485
up to ten years or, with the approval under this paragraph of 7486
the board of education of the city, local, or exempted village 7487
school district within which the parcel or district is located, 7488
for up to thirty years. The percentage of the improvement 7489
exempted from taxation may, with such approval, exceed seventy- 7490
five per cent, but shall not exceed one hundred per cent. Not 7491
later than forty-five business days prior to adopting an 7492
ordinance under this section declaring improvements to be a 7493
public purpose that is subject to approval by a board of 7494
education under this division, the legislative authority shall 7495
deliver to the board of education a notice stating its intent to 7496
adopt an ordinance making that declaration. The notice regarding 7497
improvements with respect to a parcel under division (B) of this 7498
section shall identify the parcels for which improvements are to 7499
be exempted from taxation, provide an estimate of the true value 7500
in money of the improvements, specify the period for which the 7501
improvements would be exempted from taxation and the percentage 7502
of the improvement that would be exempted, and indicate the date 7503
on which the legislative authority intends to adopt the 7504
ordinance. The notice regarding improvements to parcels within 7505
an incentive district under division (C) of this section shall 7506
delineate the boundaries of the district, specifically identify 7507
each parcel within the district, identify each anticipated 7508
improvement in the district, provide an estimate of the true 7509
value in money of each such improvement, specify the life of the 7510
district and the percentage of improvements that would be 7511

exempted, and indicate the date on which the legislative 7512
authority intends to adopt the ordinance. The board of 7513
education, by resolution adopted by a majority of the board, may 7514
approve the exemption for the period or for the exemption 7515
percentage specified in the notice; may disapprove the exemption 7516
for the number of years in excess of ten, may disapprove the 7517
exemption for the percentage of the improvement to be exempted 7518
in excess of seventy-five per cent, or both; or may approve the 7519
exemption on the condition that the legislative authority and 7520
the board negotiate an agreement providing for compensation to 7521
the school district equal in value to a percentage of the amount 7522
of taxes exempted in the eleventh and subsequent years of the 7523
exemption period or, in the case of exemption percentages in 7524
excess of seventy-five per cent, compensation equal in value to 7525
a percentage of the taxes that would be payable on the portion 7526
of the improvement in excess of seventy-five per cent were that 7527
portion to be subject to taxation, or other mutually agreeable 7528
compensation. If an agreement is negotiated between the 7529
legislative authority and the board to compensate the school 7530
district for all or part of the taxes exempted, including 7531
agreements for payments in lieu of taxes under section 5709.42 7532
of the Revised Code, the legislative authority shall compensate 7533
the joint vocational school district within which the parcel or 7534
district is located at the same rate and under the same terms 7535
received by the city, local, or exempted village school 7536
district. 7537

(3) The board of education shall certify its resolution to 7538
the legislative authority not later than fourteen days prior to 7539
the date the legislative authority intends to adopt the 7540
ordinance as indicated in the notice. If the board of education 7541
and the legislative authority negotiate a mutually acceptable 7542

compensation agreement, the ordinance may declare the 7543
improvements a public purpose for the number of years specified 7544
in the ordinance or, in the case of exemption percentages in 7545
excess of seventy-five per cent, for the exemption percentage 7546
specified in the ordinance. In either case, if the board and the 7547
legislative authority fail to negotiate a mutually acceptable 7548
compensation agreement, the ordinance may declare the 7549
improvements a public purpose for not more than ten years, and 7550
shall not exempt more than seventy-five per cent of the 7551
improvements from taxation. If the board fails to certify a 7552
resolution to the legislative authority within the time 7553
prescribed by this division, the legislative authority thereupon 7554
may adopt the ordinance and may declare the improvements a 7555
public purpose for up to thirty years, or, in the case of 7556
exemption percentages proposed in excess of seventy-five per 7557
cent, for the exemption percentage specified in the ordinance. 7558
The legislative authority may adopt the ordinance at any time 7559
after the board of education certifies its resolution approving 7560
the exemption to the legislative authority, or, if the board 7561
approves the exemption on the condition that a mutually 7562
acceptable compensation agreement be negotiated, at any time 7563
after the compensation agreement is agreed to by the board and 7564
the legislative authority. 7565

(4) If a board of education has adopted a resolution 7566
waiving its right to approve exemptions from taxation under this 7567
section and the resolution remains in effect, approval of 7568
exemptions by the board is not required under division (D) of 7569
this section. If a board of education has adopted a resolution 7570
allowing a legislative authority to deliver the notice required 7571
under division (D) of this section fewer than forty-five 7572
business days prior to the legislative authority's adoption of 7573

the ordinance, the legislative authority shall deliver the 7574
notice to the board not later than the number of days prior to 7575
such adoption as prescribed by the board in its resolution. If a 7576
board of education adopts a resolution waiving its right to 7577
approve agreements or shortening the notification period, the 7578
board shall certify a copy of the resolution to the legislative 7579
authority. If the board of education rescinds such a resolution, 7580
it shall certify notice of the rescission to the legislative 7581
authority. 7582

(5) If the legislative authority is not required by 7583
division (D) of this section to notify the board of education of 7584
the legislative authority's intent to declare improvements to be 7585
a public purpose, the legislative authority shall comply with 7586
the notice requirements imposed under section 5709.83 of the 7587
Revised Code, unless the board has adopted a resolution under 7588
that section waiving its right to receive such a notice. 7589

(E) (1) If a proposed ordinance under division (C) (1) of 7590
this section exempts improvements with respect to a parcel 7591
within an incentive district for more than ten years, or the 7592
percentage of the improvement exempted from taxation exceeds 7593
seventy-five per cent, not later than forty-five business days 7594
prior to adopting the ordinance the legislative authority of the 7595
municipal corporation shall deliver to the board of county 7596
commissioners of the county within which the incentive district 7597
will be located a notice that states its intent to adopt an 7598
ordinance creating an incentive district. The notice shall 7599
include a copy of the proposed ordinance, identify the parcels 7600
for which improvements are to be exempted from taxation, provide 7601
an estimate of the true value in money of the improvements, 7602
specify the period of time for which the improvements would be 7603
exempted from taxation, specify the percentage of the 7604

improvements that would be exempted from taxation, and indicate 7605
the date on which the legislative authority intends to adopt the 7606
ordinance. 7607

(2) The board of county commissioners, by resolution 7608
adopted by a majority of the board, may object to the exemption 7609
for the number of years in excess of ten, may object to the 7610
exemption for the percentage of the improvement to be exempted 7611
in excess of seventy-five per cent, or both. If the board of 7612
county commissioners objects, the board may negotiate a mutually 7613
acceptable compensation agreement with the legislative 7614
authority. In no case shall the compensation provided to the 7615
board exceed the property taxes forgone due to the exemption. If 7616
the board of county commissioners objects, and the board and 7617
legislative authority fail to negotiate a mutually acceptable 7618
compensation agreement, the ordinance adopted under division (C) 7619
(1) of this section shall provide to the board compensation in 7620
the eleventh and subsequent years of the exemption period equal 7621
in value to not more than fifty per cent of the taxes that would 7622
be payable to the county or, if the board's objection includes 7623
an objection to an exemption percentage in excess of seventy- 7624
five per cent, compensation equal in value to not more than 7625
fifty per cent of the taxes that would be payable to the county, 7626
on the portion of the improvement in excess of seventy-five per 7627
cent, were that portion to be subject to taxation. The board of 7628
county commissioners shall certify its resolution to the 7629
legislative authority not later than thirty days after receipt 7630
of the notice. 7631

(3) If the board of county commissioners does not object 7632
or fails to certify its resolution objecting to an exemption 7633
within thirty days after receipt of the notice, the legislative 7634
authority may adopt the ordinance, and no compensation shall be 7635

provided to the board of county commissioners. If the board 7636
timely certifies its resolution objecting to the ordinance, the 7637
legislative authority may adopt the ordinance at any time after 7638
a mutually acceptable compensation agreement is agreed to by the 7639
board and the legislative authority, or, if no compensation 7640
agreement is negotiated, at any time after the legislative 7641
authority agrees in the proposed ordinance to provide 7642
compensation to the board of fifty per cent of the taxes that 7643
would be payable to the county in the eleventh and subsequent 7644
years of the exemption period or on the portion of the 7645
improvement in excess of seventy-five per cent, were that 7646
portion to be subject to taxation. 7647

(F) Service payments in lieu of taxes that are 7648
attributable to any amount by which the effective tax rate of 7649
either a renewal levy with an increase or a replacement levy 7650
exceeds the effective tax rate of the levy renewed or replaced, 7651
or that are attributable to an additional levy, for a levy 7652
authorized by the voters for any of the following purposes on or 7653
after January 1, 2006, and which are provided pursuant to an 7654
ordinance creating an incentive district under division (C) (1) 7655
of this section that is adopted on or after January 1, 2006, or 7656
a later date as specified in this division, shall be distributed 7657
to the appropriate taxing authority as required under division 7658
(C) of section 5709.42 of the Revised Code in an amount equal to 7659
the amount of taxes from that additional levy or from the 7660
increase in the effective tax rate of such renewal or 7661
replacement levy that would have been payable to that taxing 7662
authority from the following levies were it not for the 7663
exemption authorized under division (C) of this section: 7664

(1) A tax levied under division (L) of section 5705.19 or 7665
section 5705.191 or 5705.222 of the Revised Code for community 7666

developmental disabilities programs and services pursuant to	7667
Chapter 5126. of the Revised Code;	7668
(2) A tax levied under division (Y) of section 5705.19 of	7669
the Revised Code for providing or maintaining senior citizens	7670
services or facilities;	7671
(3) A tax levied under section 5705.22 of the Revised Code	7672
for county hospitals;	7673
(4) A tax levied by a joint-county district or by a county	7674
under section 5705.19, 5705.191, or 5705.221 of the Revised Code	7675
for alcohol, drug addiction, and mental health services or	7676
facilities;	7677
(5) A tax levied under section 5705.23 of the Revised Code	7678
for library purposes;	7679
(6) A tax levied under section 5705.24 of the Revised Code	7680
for the support of children services and the placement and care	7681
of children;	7682
(7) A tax levied under division (Z) of section 5705.19 of	7683
the Revised Code for the provision and maintenance of zoological	7684
park services and facilities under section 307.76 of the Revised	7685
Code;	7686
(8) A tax levied under section 511.27 or division (H) of	7687
section 5705.19 of the Revised Code for the support of township	7688
park districts;	7689
(9) A tax levied under division (A), (F), or (H) of	7690
section 5705.19 of the Revised Code for parks and recreational	7691
purposes of a joint recreation district organized pursuant to	7692
division (B) of section 755.14 of the Revised Code;	7693
(10) A tax levied under section 1545.20 or 1545.21 of the	7694

Revised Code for park district purposes; 7695

(11) A tax levied under section 5705.191 of the Revised 7696
Code for the purpose of making appropriations for public 7697
assistance; human or social services; public relief; public 7698
welfare; public health and hospitalization; and support of 7699
general hospitals; 7700

(12) A tax levied under section 3709.29 of the Revised 7701
Code for a general health district program. 7702

(13) A tax levied by a township under section 505.39, 7703
division (I) of section 5705.19, or division (JJ) of section 7704
5705.19 of the Revised Code to the extent the proceeds are used 7705
for the purposes described in division (I) of that section, for 7706
the purpose of funding fire, emergency medical, and ambulance 7707
services as described in that section and those divisions. 7708
Division (F) (13) of this section applies only if the township 7709
levying the tax provides fire, emergency medical, or ambulance 7710
services in the incentive district, and only to incentive 7711
districts created by an ordinance adopted on or after ~~the~~ 7712
~~effective date of the amendment of this section by H.B. 69 of~~ 7713
~~the 132nd general assembly March 23, 2018~~. The board of township 7714
trustees may, by resolution, waive the application of this 7715
division or negotiate with the municipal corporation that 7716
created the district for a lesser amount of payments in lieu of 7717
taxes. 7718

(G) An exemption from taxation granted under this section 7719
commences with the tax year specified in the ordinance so long 7720
as the year specified in the ordinance commences after the 7721
effective date of the ordinance. If the ordinance specifies a 7722
year commencing before the effective date of the resolution or 7723
specifies no year whatsoever, the exemption commences with the 7724

tax year in which an exempted improvement first appears on the 7725
tax list and duplicate of real and public utility property and 7726
that commences after the effective date of the ordinance. In 7727
lieu of stating a specific year, the ordinance may provide that 7728
the exemption commences in the tax year in which the value of an 7729
improvement exceeds a specified amount or in which the 7730
construction of one or more improvements is completed, provided 7731
that such tax year commences after the effective date of the 7732
ordinance. With respect to the exemption of improvements to 7733
parcels under division (B) of this section, the ordinance may 7734
allow for the exemption to commence in different tax years on a 7735
parcel-by-parcel basis, with a separate exemption term specified 7736
for each parcel. 7737

Except as otherwise provided in this division, the 7738
exemption ends on the date specified in the ordinance as the 7739
date the improvement ceases to be a public purpose or the 7740
incentive district expires, or ends on the date on which the 7741
public infrastructure improvements and housing renovations are 7742
paid in full from the municipal public improvement tax increment 7743
equivalent fund established under division (A) of section 7744
5709.43 of the Revised Code, whichever occurs first. The 7745
exemption of an improvement with respect to a parcel or within 7746
an incentive district may end on a later date, as specified in 7747
the ordinance, if the legislative authority and the board of 7748
education of the city, local, or exempted village school 7749
district within which the parcel or district is located have 7750
entered into a compensation agreement under section 5709.82 of 7751
the Revised Code with respect to the improvement, and the board 7752
of education has approved the term of the exemption under 7753
division (D) (2) of this section, but in no case shall the 7754
improvement be exempted from taxation for more than thirty 7755

years. Exemptions shall be claimed and allowed in the same 7756
manner as in the case of other real property exemptions. If an 7757
exemption status changes during a year, the procedure for the 7758
apportionment of the taxes for that year is the same as in the 7759
case of other changes in tax exemption status during the year. 7760

(H) Additional municipal financing of public 7761
infrastructure improvements and housing renovations may be 7762
provided by any methods that the municipal corporation may 7763
otherwise use for financing such improvements or renovations. If 7764
the municipal corporation issues bonds or notes to finance the 7765
public infrastructure improvements and housing renovations and 7766
pledges money from the municipal public improvement tax 7767
increment equivalent fund to pay the interest on and principal 7768
of the bonds or notes, the bonds or notes are not subject to 7769
Chapter 133. of the Revised Code. 7770

(I) The municipal corporation, not later than fifteen days 7771
after the adoption of an ordinance under this section, shall 7772
submit to the director of development services a copy of the 7773
ordinance. On or before the thirty-first day of March of each 7774
year, the municipal corporation shall submit a status report to 7775
the director of development services. The report shall indicate, 7776
in the manner prescribed by the director, the progress of the 7777
project during each year that an exemption remains in effect, 7778
including a summary of the receipts from service payments in 7779
lieu of taxes; expenditures of money from the funds created 7780
under section 5709.43 of the Revised Code; a description of the 7781
public infrastructure improvements and housing renovations 7782
financed with such expenditures; and a quantitative summary of 7783
changes in employment and private investment resulting from each 7784
project. 7785

(J) Nothing in this section shall be construed to prohibit 7786
a legislative authority from declaring to be a public purpose 7787
improvements with respect to more than one parcel. 7788

(K) If a parcel is located in a new community district in 7789
which the new community authority imposes a community 7790
development charge on the basis of rentals received from leases 7791
of real property as described in division (L) (2) of section 7792
349.01 of the Revised Code, the parcel may not be exempted from 7793
taxation under this section. 7794

Sec. 5709.43. (A) A municipal corporation that grants a 7795
tax exemption under section 5709.40 of the Revised Code shall 7796
establish a municipal public improvement tax increment 7797
equivalent fund into which shall be deposited service payments 7798
in lieu of taxes distributed to the municipal corporation under 7799
section 5709.42 of the Revised Code. If the legislative 7800
authority of the municipal corporation has adopted an ordinance 7801
under division (C) of section 5709.40 of the Revised Code, the 7802
municipal corporation shall establish at least one account in 7803
that fund with respect to ordinances adopted under division (B) 7804
of that section, and one account with respect to each incentive 7805
district created in an ordinance adopted under division (C) of 7806
that section. If an ordinance adopted under division (C) of 7807
section 5709.40 of the Revised Code also authorizes the use of 7808
service payments for housing renovations within the district, 7809
the municipal corporation shall establish separate accounts for 7810
the service payments designated for public infrastructure 7811
improvements and for the service payments authorized for the 7812
purpose of housing renovations. Money in an account of the 7813
municipal public improvement tax increment equivalent fund shall 7814
be used to finance the public infrastructure improvements 7815
designated in, or the housing renovations authorized by, the 7816

ordinance with respect to which the account is established; in 7817
the case of an account established with respect to an ordinance 7818
adopted under division (C) of that section, money in the account 7819
shall be used to finance the public infrastructure improvements 7820
designated, or the housing renovations authorized, for each 7821
incentive district created in the ordinance. Money in an account 7822
shall not be used to finance or support housing renovations that 7823
take place after the incentive district has expired. The 7824
municipal corporation also may deposit into any of those 7825
accounts municipal income tax revenue that has been designated 7826
by ordinance to finance the public infrastructure improvements 7827
and housing renovations. 7828

(B) A municipal corporation may establish an urban 7829
redevelopment tax increment equivalent fund, by resolution or 7830
ordinance of its legislative authority, into which shall be 7831
deposited service payments in lieu of taxes distributed to the 7832
municipal corporation by the county treasurer as provided in 7833
section 5709.42 of the Revised Code for improvements exempt from 7834
taxation pursuant to an ordinance adopted under section 5709.41 7835
of the Revised Code. Moneys deposited in the urban redevelopment 7836
tax increment equivalent fund shall be used for such purposes as 7837
are authorized in the resolution or ordinance establishing the 7838
fund. The municipal corporation also may deposit into the urban 7839
redevelopment tax increment equivalent fund municipal income tax 7840
revenue that has been dedicated to fund any of the purposes for 7841
which the fund is established. 7842

(C) (1) (a) A municipal corporation may distribute money in 7843
the municipal public improvement tax increment equivalent fund 7844
or the urban redevelopment tax increment equivalent fund to any 7845
school district in which the exempt property is located, in an 7846
amount not to exceed the amount of real property taxes that such 7847

school district would have received from the improvement if it 7848
were not exempt from taxation, or use money in either or both 7849
funds to finance specific public improvements benefiting the 7850
school district. The resolution or ordinance establishing the 7851
fund shall set forth the percentage of such maximum amount that 7852
will be distributed to any affected school district or used to 7853
finance specific public improvements benefiting the school 7854
district. 7855

(b) A municipal corporation also may distribute money in 7856
the municipal public improvement tax increment equivalent fund 7857
or the urban redevelopment tax increment equivalent fund as 7858
follows: 7859

(i) To a board of county commissioners, in the amount that 7860
is owed to the board pursuant to division (E) of section 5709.40 7861
of the Revised Code; 7862

(ii) To a county in accordance with section 5709.913 of 7863
the Revised Code. 7864

(2) Money from an account in a municipal public 7865
improvement tax increment equivalent fund or from an urban 7866
redevelopment tax increment equivalent fund may be distributed 7867
under division (C)(1)(b) of this section, regardless of the date 7868
a resolution or an ordinance was adopted under section 5709.40 7869
or 5709.41 of the Revised Code that prompted the establishment 7870
of the account or the establishment of the urban redevelopment 7871
tax increment equivalent fund, even if the resolution or 7872
ordinance was adopted prior to ~~the effective date of this~~ 7873
~~amendment~~ March 30, 2006. 7874

(D) Any incidental surplus remaining in the municipal 7875
public improvement tax increment equivalent fund or an account 7876

of that fund, or in the urban redevelopment tax increment 7877
equivalent fund, upon dissolution of the account or fund shall 7878
be transferred to the general fund of the municipal corporation. 7879

Sec. 5709.48. (A) As used in this section: 7880

(1) "Regional transportation improvement project" has the 7881
same meaning as in section 5595.01 of the Revised Code. 7882

(2) "Improvements" means the increase in the assessed 7883
value of any real property that would first appear on the tax 7884
list and duplicate of real and public utility property after the 7885
effective date of the resolution adopted under this section were 7886
it not for the exemption granted by that resolution. 7887

(B) For the purposes described in division (A) of section 7888
5595.06 of the Revised Code, the governing board of a regional 7889
transportation improvement project that was undertaken pursuant 7890
to section 5595.02 of the Revised Code before ~~the effective date~~ 7891
~~of the amendment of this section by S.B. 8 of the 132nd general~~ 7892
~~assembly March 23, 2018,~~ may, by resolution, create a 7893
transportation financing district and declare improvements to 7894
parcels within the district to be a public purpose and exempt 7895
from taxation. 7896

(C) A transportation financing district may include 7897
territory in more than one county as long as each such county is 7898
a participant in the regional transportation improvement project 7899
funded by the district. A district shall not include parcels 7900
used primarily for residential purposes. A district shall not 7901
include any parcel that is currently exempt from taxation under 7902
this section or section 5709.40, 5709.41, 5709.45, 5709.73, or 7903
5709.77 of the Revised Code. The governing board may designate 7904
parcels within the boundaries of a district that are not to be 7905

included in the district. The governing board may designate 7906
noncontiguous parcels located outside the boundaries of the 7907
district that are to be included in the district. 7908

The governing board may adopt more than one resolution 7909
under division (B) of this section. A single such resolution may 7910
create more than one transportation financing district. 7911

(D) A resolution creating a transportation financing 7912
district shall specify all of the following: 7913

(1) A description of the territory included in the 7914
district; 7915

(2) The county treasurer's permanent parcel number 7916
associated with each parcel included in the district; 7917

(3) The percentage of improvements to be exempted from 7918
taxation and the duration of the exemption, which shall not 7919
exceed the remaining number of years the cooperative agreement 7920
for the regional transportation improvement district, described 7921
under section 5595.03 of the Revised Code, is in effect; 7922

(4) A plan for the district that describes the principal 7923
purposes and goals to be served by the district and explains how 7924
the use of service payments provided for by section 5709.49 of 7925
the Revised Code will economically benefit owners of property 7926
within the district. 7927

(E) (1) Except as otherwise provided in divisions (E) (2) 7928
and (3) of this section, the governing board, before adopting a 7929
resolution under division (B) of this section, shall notify and 7930
obtain the approval of each subdivision and taxing unit that 7931
levies a property tax within the territory of the proposed 7932
transportation financing district. A subdivision or taxing 7933
unit's approval or disapproval of the proposed district shall be 7934

in the form of an ordinance or resolution. The governing board 7935
may negotiate an agreement with a subdivision or taxing unit 7936
providing for compensation equal in value to a percentage of the 7937
amount of taxes exempted or some other mutually agreeable 7938
compensation. 7939

(2) A subdivision or taxing unit may adopt an ordinance or 7940
resolution waiving its right to approve or receive notice of 7941
transportation financing districts proposed under this section. 7942
If a subdivision or taxing unit has adopted such an ordinance or 7943
resolution, the terms of that ordinance or resolution supersede 7944
the requirements of division (E) (1) of this section. The 7945
governing board may negotiate an agreement with a subdivision or 7946
taxing unit providing for some mutually agreeable compensation 7947
in exchange for the subdivision or taxing unit adopting such an 7948
ordinance or resolution. If a subdivision or taxing unit has 7949
adopted such an ordinance or resolution, it shall certify a copy 7950
to the governing board. If the subdivision or taxing unit 7951
rescinds such an ordinance or resolution, it shall certify 7952
notice of the rescission to the governing board. 7953

(3) The governing board need not obtain the approval of a 7954
subdivision or taxing unit if the governing board agrees to 7955
compensate that subdivision or unit for the full amount of taxes 7956
exempted under the resolution creating the district. 7957

(F) After complying with division (E) of this section, the 7958
governing board shall notify and obtain the approval of every 7959
real property owner whose property is included in the proposed 7960
transportation financing district. 7961

(G) (1) Upon adopting a resolution creating a 7962
transportation financing district, the governing board shall 7963
send a copy of the resolution and documentation sufficient to 7964

prove that the requirements of divisions (E) and (F) of this 7965
section have been met to the director of development services. 7966
The director shall evaluate the resolution and documentation to 7967
determine if the governing board has fully complied with the 7968
requirements of this section. If the director approves the 7969
resolution, the director shall send notice of approval to the 7970
governing board. If the director does not approve the 7971
resolution, the director shall send a notice of denial to the 7972
governing board that includes the reason or reasons for the 7973
denial. If the director does not make a determination within 7974
ninety days after receiving a resolution under this section, the 7975
director is deemed to have approved the resolution. No 7976
resolution creating a transportation financing district is 7977
effective without actual or constructive approval by the 7978
director under this section. 7979

(2) An exemption from taxation granted under this section 7980
commences with the tax year specified in the resolution so long 7981
as the year specified in the resolution commences after the 7982
effective date of the resolution. If the resolution specifies a 7983
year commencing before the effective date of the resolution or 7984
specifies no year whatsoever, the exemption commences with the 7985
tax year in which an exempted improvement first appears on the 7986
tax list and that commences after the effective date of the 7987
resolution. 7988

(3) Except as otherwise provided in this division, the 7989
exemption ends on the date specified in the resolution as the 7990
date the improvement ceases to be a public purpose or the 7991
regional transportation improvement project funded by the 7992
service payments dissolves under section 5595.13 of the Revised 7993
Code, whichever occurs first. Exemptions shall be claimed and 7994
allowed in the same manner as in the case of other real property 7995

exemptions. If an exemption status changes during a year, the 7996
procedure for the apportionment of the taxes for that year is 7997
the same as in the case of other changes in tax exemption status 7998
during the year. 7999

(H) The resolution creating a transportation financing 8000
district may be amended at any time by majority vote of the 8001
governing board and with the approval of the director of 8002
development services obtained in the same manner as approval of 8003
the original resolution. 8004

Sec. 5709.53. (A) A solar, wind, or hydrothermal energy 8005
system on which construction or installation is completed during 8006
the period from ~~the effective date of this section~~ August 14, 8007
1979, through December 31, 1985, that meets the guidelines 8008
established under division (B) of section 1551.20 of the Revised 8009
Code is exempt from real property taxation. 8010

(B) Any fixture or other real property included in an 8011
energy facility with an aggregate nameplate capacity of two 8012
hundred fifty kilowatts or less is exempt from taxation if 8013
construction or installation is completed on or after January 1, 8014
2010. 8015

As used in division (B) of this section, "energy facility" 8016
and "nameplate capacity" have the same meanings as in section 8017
5727.01 of the Revised Code. 8018

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of 8019
the Revised Code: 8020

(A) "Enterprise zone" or "zone" means any of the 8021
following: 8022

(1) An area with a single continuous boundary designated 8023
in the manner set forth in section 5709.62 or 5709.63 of the 8024

Revised Code and certified by the director of development as 8025
having a population of at least four thousand according to the 8026
best and most recent data available to the director and having 8027
at least two of the following characteristics: 8028

(a) It is located in a municipal corporation defined by 8029
the United States office of management and budget as a principal 8030
city of a metropolitan statistical area; 8031

(b) It is located in a county designated as being in the 8032
"Appalachian region" under the "Appalachian Regional Development 8033
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 8034

(c) Its average rate of unemployment, during the most 8035
recent twelve-month period for which data are available, is 8036
equal to at least one hundred twenty-five per cent of the 8037
average rate of unemployment for the state of Ohio for the same 8038
period; 8039

(d) There is a prevalence of commercial or industrial 8040
structures in the area that are vacant or demolished, or are 8041
vacant and the taxes charged thereon are delinquent, and 8042
certification of the area as an enterprise zone would likely 8043
result in the reduction of the rate of vacant or demolished 8044
structures or the rate of tax delinquency in the area; 8045

(e) The population of all census tracts in the area, 8046
according to the federal census of 2000, decreased by at least 8047
ten per cent between the years 1980 and 2000; 8048

(f) At least fifty-one per cent of the residents of the 8049
area have incomes of less than eighty per cent of the median 8050
income of residents of the municipal corporation or municipal 8051
corporations in which the area is located, as determined in the 8052
same manner specified under section 119(b) of the "Housing and 8053

Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 8054
5318, as amended; 8055

(g) The area contains structures previously used for 8056
industrial purposes, but currently not so used due to age, 8057
obsolescence, deterioration, relocation of the former occupant's 8058
operations, or cessation of operations resulting from 8059
unfavorable economic conditions either generally or in a 8060
specific economic sector; 8061

(h) It is located within one or more adjacent city, local, 8062
or exempted village school districts, the income-weighted tax 8063
capacity of each of which is less than seventy per cent of the 8064
average of the income-weighted tax capacity of all city, local, 8065
or exempted village school districts in the state according to 8066
the most recent data available to the director from the 8067
department of taxation. 8068

The director of development shall adopt rules in 8069
accordance with Chapter 119. of the Revised Code establishing 8070
conditions constituting the characteristics described in 8071
divisions (A) (1) (d), (g), and (h) of this section. 8072

If an area could not be certified as an enterprise zone 8073
unless it satisfied division (A) (1) (g) of this section, the 8074
legislative authority may enter into agreements in that zone 8075
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 8076
only if such agreements result in the development of the 8077
facilities described in that division, the parcel of land on 8078
which such facilities are situated, or adjacent parcels. The 8079
director of development annually shall review all agreements in 8080
such zones to determine whether the agreements have resulted in 8081
such development; if the director determines that the agreements 8082
have not resulted in such development, the director immediately 8083

shall revoke certification of the zone and notify the 8084
legislative authority of such revocation. Any agreements entered 8085
into prior to revocation under this paragraph shall continue in 8086
effect for the period provided in the agreement. 8087

(2) An area with a single continuous boundary designated 8088
in the manner set forth in section 5709.63 of the Revised Code 8089
and certified by the director of development as having all of 8090
the following characteristics: 8091

(a) Being located within a county that contains a 8092
population of three hundred thousand or less; 8093

(b) Having a population of at least one thousand according 8094
to the best and most recent data available to the director; 8095

(c) Having at least two of the characteristics described 8096
in divisions (A) (1) (b) to (h) of this section. 8097

(3) An area with a single continuous boundary designated 8098
in the manner set forth under division (A) (1) of section 8099
5709.632 of the Revised Code and certified by the director of 8100
development as having a population of at least four thousand, or 8101
under division (A) (2) of that section and certified as having a 8102
population of at least one thousand, according to the best and 8103
most recent data available to the director. 8104

(B) "Enterprise" means any form of business organization 8105
including, but not limited to, any partnership, sole 8106
proprietorship, or corporation, including an S corporation as 8107
defined in section 1361 of the Internal Revenue Code and any 8108
corporation that is majority ~~work-owned~~ worker-owned either 8109
directly through the ownership of stock or indirectly through 8110
participation in an employee stock ownership plan. 8111

(C) "Facility" means an enterprise's place of business in 8112

a zone, including land, buildings, machinery, equipment, and 8113
other materials, except inventory, used in business. "Facility" 8114
includes land, buildings, machinery, production and station 8115
equipment, other equipment, and other materials, except 8116
inventory, used in business to generate electricity, provided 8117
that, for purposes of sections 5709.61 to 5709.69 of the Revised 8118
Code, the value of the property at such a facility shall be 8119
reduced by the value, if any, that is not apportioned under 8120
section 5727.15 of the Revised Code to the taxing district in 8121
which the facility is physically located. In the case of such a 8122
facility that is physically located in two adjacent taxing 8123
districts, the property located in each taxing district 8124
constitutes a separate facility. 8125

"Facility" does not include any portion of an enterprise's 8126
place of business used primarily for making retail sales unless 8127
the place of business is located in an impacted city as defined 8128
in section 1728.01 of the Revised Code or the board of education 8129
of the city, local, or exempted village school district within 8130
the territory of which the place of business is located adopts a 8131
resolution waiving the exclusion of retail facilities under 8132
section 5709.634 of the Revised Code. 8133

(D) "Vacant facility" means a facility that has been 8134
vacant for at least ninety days immediately preceding the date 8135
on which an agreement is entered into under section 5709.62 or 8136
5709.63 of the Revised Code. 8137

(E) "Expand" means to make expenditures to add land, 8138
buildings, machinery, equipment, or other materials, except 8139
inventory, to a facility that equal at least ten per cent of the 8140
market value of the facility prior to such expenditures, as 8141
determined for the purposes of local property taxation. 8142

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

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

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

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

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

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

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

(M) "Unemployed person" means any person who is totally

unemployed in this state, as that term is defined in division 8172
(M) of section 4141.01 of the Revised Code, for at least ten 8173
consecutive weeks immediately preceding that person's employment 8174
at a facility that is a project site, or who is so unemployed 8175
for at least twenty-six of the fifty-two weeks immediately 8176
preceding that person's employment at such a facility. 8177

(N) "JTPA eligible employee" means any individual who is 8178
eligible for employment or training under the "Job Training 8179
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 8180
amended. 8181

(O) "First used in business" means that the property 8182
referred to has not been used in business in this state by the 8183
enterprise that owns it, or by an enterprise that is a related 8184
member or predecessor enterprise of such an enterprise, other 8185
than as inventory, prior to being used in business at a facility 8186
as the result of a project. 8187

(P) "Training program" means any noncredit training 8188
program or course of study that is offered by any state college 8189
or university; university branch district; community college; 8190
technical college; nonprofit college or university certified 8191
under section 1713.02 of the Revised Code; school district; 8192
joint vocational school district; school registered and 8193
authorized to offer programs under section 3332.05 of the 8194
Revised Code; an entity administering any federal, state, or 8195
local adult education and training program; or any enterprise; 8196
and that meets all of the following requirements: 8197

(1) It is approved by the director of development; 8198

(2) It is established or operated to satisfy the need of a 8199
particular industry or enterprise for skilled or semi-skilled 8200

employees; 8201

(3) An individual is required to complete the course or 8202
program before filling a position at a project site. 8203

(Q) "Development" means to engage in the process of 8204
clearing and grading land, making, installing, or constructing 8205
water distribution systems, sewers, sewage collection systems, 8206
steam, gas, and electric lines, roads, curbs, gutters, 8207
sidewalks, storm drainage facilities, and construction of other 8208
facilities or buildings equal to at least fifty per cent of the 8209
market value of the facility prior to the expenditures, as 8210
determined for the purposes of local property taxation. 8211

(R) "Large manufacturing facility" means a single Ohio 8212
facility that employed an average of at least one thousand 8213
individuals during the five calendar years preceding an 8214
agreement authorized under division (C) (3) of section 5709.62 or 8215
division (B) (2) of section 5709.63 of the Revised Code. For 8216
purposes of this division, both of the following apply: 8217

(1) A single Ohio manufacturing facility employed an 8218
average of at least one thousand individuals during the five 8219
calendar years preceding entering into such an agreement if one- 8220
fifth of the sum of the number of employees employed on the 8221
highest employment day during each of the five calendar years 8222
equals or exceeds one thousand. 8223

(2) The highest employment day is the day or days during a 8224
calendar year on which the number of employees employed at a 8225
single Ohio manufacturing facility was greater than on any other 8226
day during the calendar year. 8227

(S) "Business cycle" means the cycle of business activity 8228
usually regarded as passing through alternating stages of 8229

prosperity and depression. 8230

(T) "Making retail sales" means the effecting of point-of- 8231
final-purchase transactions at a facility open to the consuming 8232
public, wherein one party is obligated to pay the price and the 8233
other party is obligated to provide a service or to transfer 8234
title to or possession of the item sold. 8235

(U) "Environmentally contaminated" means that hazardous 8236
substances exist at a facility under conditions that have caused 8237
or would cause the facility to be identified as contaminated by 8238
the state or federal environmental protection agency. These may 8239
include facilities located at sites identified in the master 8240
sites list or similar database maintained by the state 8241
environmental protection agency if the sites have been 8242
investigated by the agency and found to be contaminated. 8243

(V) "Remediate" means to make expenditures to clean up an 8244
environmentally contaminated facility so that it is no longer 8245
environmentally contaminated that equal at least ten per cent of 8246
the real property market value of the facility prior to such 8247
expenditures as determined for the purposes of property 8248
taxation. 8249

(W) "Related member" has the same meaning as defined in 8250
section 5733.042 of the Revised Code without regard to division 8251
(B) of that section, except that it is used with respect to an 8252
enterprise rather than a taxpayer. 8253

(X) "Predecessor enterprise" means an enterprise from 8254
which the assets or equity of another enterprise has been 8255
transferred, which transfer resulted in the full or partial 8256
nonrecognition of gain or loss, or resulted in a carryover 8257
basis, both as determined by rule adopted by the tax 8258

commissioner. 8259

(Y) "Successor enterprise" means an enterprise to which 8260
the assets or equity of another enterprise has been transferred, 8261
which transfer resulted in the full or partial nonrecognition of 8262
gain or loss, or resulted in a carryover basis, both as 8263
determined by rule adopted by the tax commissioner. 8264

Sec. 5709.80. (A) The board of county commissioners of a 8265
county that receives service payments in lieu of taxes under 8266
section 5709.79 of the Revised Code shall establish a 8267
redevelopment tax equivalent fund into which those payments 8268
shall be deposited. Separate accounts shall be established in 8269
the fund for each resolution adopted by the board of county 8270
commissioners under section 5709.78 of the Revised Code. If the 8271
board of county commissioners has adopted a resolution under 8272
division (B) of that section, the county shall establish an 8273
account for each incentive district created in that resolution. 8274
If a resolution adopted under division (B) of section 5709.78 of 8275
the Revised Code also authorizes the use of service payments for 8276
housing renovations within the incentive district, the county 8277
shall establish separate accounts for the service payments 8278
designated for public infrastructure improvements and for the 8279
service payments authorized for the purpose of housing 8280
renovations. 8281

(B) Moneys deposited into each account of the fund shall 8282
be used by the county to pay the cost of constructing or 8283
repairing the public infrastructure improvements designated in, 8284
or the housing renovations authorized by, the resolution, or for 8285
each incentive district for which the account is established, to 8286
pay the interest on and principal of bonds or notes issued under 8287
division (B) of section 307.082 or division (A) of section 8288

5709.81 of the Revised Code, or for the purposes pledged under 8289
division (B) of section 5709.81 of the Revised Code. Money in an 8290
account shall not be used to finance or support housing 8291
renovations that take place after the incentive district has 8292
expired. 8293

(C) (1) (a) The board of county commissioners may distribute 8294
money in an account to any school district in which the exempt 8295
property is located in an amount not to exceed the amount of 8296
real property taxes that such school district would have 8297
received from the improvement if it were not exempt from 8298
taxation. The resolution under which an account is established 8299
shall set forth the percentage of such maximum amount that will 8300
be distributed to any affected school district. 8301

(b) A board of county commissioners also may distribute 8302
money in such an account as follows: 8303

(i) To a board of township trustees or legislative 8304
authority of a municipal corporation, as applicable, in the 8305
amount that is owed to the board of township trustees or 8306
legislative authority pursuant to division (D) of section 8307
5709.78 of the Revised Code; 8308

(ii) To a township in accordance with section 5709.914 of 8309
the Revised Code. 8310

(2) Money from an account in the redevelopment tax 8311
equivalent fund may be distributed under division (C) (1) (b) of 8312
this section, regardless of the date a resolution was adopted 8313
under section 5709.78 of the Revised Code that prompted the 8314
establishment of the account, even if the resolution was adopted 8315
prior to ~~the effective date of this amendment~~ March 30, 2006. 8316

(D) An account dissolves upon fulfillment of the purposes 8317

for which money in the account may be used. An incidental 8318
surplus remaining in an account upon its dissolution shall be 8319
transferred to the general fund of the county. 8320

Sec. 5709.85. (A) The legislative authority of a county, 8321
township, or municipal corporation that grants an exemption from 8322
taxation under Chapter 725. or 1728. or under section 3735.67, 8323
5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 8324
5709.73, or 5709.78 of the Revised Code shall create a tax 8325
incentive review council. The council shall consist of the 8326
following members: 8327

(1) In the case of a municipal corporation eligible to 8328
designate a zone under section 5709.62 or 5709.632 of the 8329
Revised Code, the chief executive officer or that officer's 8330
designee; a member of the legislative authority of the municipal 8331
corporation, appointed by the president of the legislative 8332
authority or, if the chief executive officer of the municipal 8333
corporation is the president, appointed by the president pro 8334
tempore of the legislative authority; the county auditor or the 8335
county auditor's designee; the chief financial officer of the 8336
municipal corporation or that officer's designee; an individual 8337
appointed by the board of education of each city, local, 8338
exempted village, and joint vocational school district to which 8339
the instrument granting the exemption applies; and two members 8340
of the public appointed by the chief executive officer of the 8341
municipal corporation with the concurrence of the legislative 8342
authority. At least four members of the council shall be 8343
residents of the municipal corporation, and at least one of the 8344
two public members appointed by the chief executive officer 8345
shall be a minority. As used in division (A)(1) of this section, 8346
a "minority" is an individual who is African-American, Hispanic, 8347
or Native American. 8348

(2) In the case of a county or a municipal corporation 8349
that is not eligible to designate a zone under section 5709.62 8350
or 5709.632 of the Revised Code, three members appointed by the 8351
board of county commissioners; two members from each municipal 8352
corporation to which the instrument granting the tax exemption 8353
applies, appointed by the chief executive officer with the 8354
concurrence of the legislative authority of the respective 8355
municipal corporations; two members of each township to which 8356
the instrument granting the tax exemption applies, appointed by 8357
the board of township trustees of the respective townships; the 8358
county auditor or the county auditor's designee; and an 8359
individual appointed by the board of education of each city, 8360
local, exempted village, and joint vocational school district to 8361
which the instrument granting the tax exemption applies. At 8362
least two members of the council shall be residents of the 8363
municipal corporations or townships to which the instrument 8364
granting the tax exemption applies. 8365

(3) In the case of a township in which improvements are 8366
declared a public purpose under section 5709.73 of the Revised 8367
Code, the board of township trustees; the county auditor or the 8368
county auditor's designee; and an individual appointed by the 8369
board of education of each city, local, exempted village, and 8370
joint vocational school district to which the instrument 8371
granting the exemption applies. 8372

(B) The county auditor or the county auditor's designee 8373
shall serve as the chairperson of the council. The council shall 8374
meet at the call of the chairperson. At the first meeting of the 8375
council, the council shall select a vice-chairperson. Attendance 8376
by a majority of the members of the council constitutes a quorum 8377
to conduct the business of the council. 8378

(C) (1) Annually, the tax incentive review council shall 8379
review all agreements granting exemptions from property taxation 8380
under Chapter 725. or 1728. or under section 3735.671, 5709.28, 8381
5709.62, 5709.63, or 5709.632 of the Revised Code, and any 8382
performance or audit reports required to be submitted pursuant 8383
to those agreements. The review shall include agreements 8384
granting such exemptions that were entered into prior to July 8385
22, 1994, that continue to be in force and applicable to the 8386
current year's property taxes. 8387

With respect to each agreement, other than an agreement 8388
entered into under section 5709.28 of the Revised Code, the 8389
council shall determine whether the owner of the exempted 8390
property has complied with the agreement, and may take into 8391
consideration any fluctuations in the business cycle unique to 8392
the owner's business. 8393

With respect to an agreement entered into under section 8394
5709.28 of the Revised Code, the council shall consist of the 8395
members described in division (A) (2) of this section and shall 8396
determine whether the agreement complies with the requirements 8397
of section 5709.28 of the Revised Code and whether a withdrawal, 8398
removal, or conversion of land from an agricultural security 8399
area established under Chapter 931. of the Revised Code has 8400
occurred in a manner that makes the exempted property no longer 8401
eligible for the exemption. 8402

On the basis of the determinations, on or before the first 8403
day of September of each year, the council shall submit to the 8404
legislative authority written recommendations for continuation, 8405
modification, or cancellation of each agreement. 8406

(2) Annually, the tax incentive review council shall 8407
review all exemptions from property taxation resulting from the 8408

declaration of public purpose improvements pursuant to section 8409
5709.40, 5709.41, 5709.45, 5709.73, or 5709.78 of the Revised 8410
Code. The review shall include such exemptions that were granted 8411
prior to July 22, 1994, that continue to be in force and 8412
applicable to the current year's property taxes. With respect to 8413
each improvement for which an exemption is granted, the council 8414
shall determine the increase in the true value of parcels of 8415
real property on which improvements have been undertaken as a 8416
result of the exemption; the value of improvements exempted from 8417
taxation as a result of the exemption; and the number of new 8418
employees or employees retained on the site of the improvement 8419
as a result of the exemption. 8420

Upon the request of a tax incentive review council, the 8421
county auditor, the housing officer appointed pursuant to 8422
section 3735.66 of the Revised Code, the owner of a new or 8423
remodeled structure or improvement, and the legislative 8424
authority of the county, township, or municipal corporation 8425
granting the exemption shall supply the council with any 8426
information reasonably necessary for the council to make the 8427
determinations required under division (C) of this section, 8428
including returns or reports filed pursuant to sections 5711.02, 8429
5711.13, and 5727.08 of the Revised Code. 8430

(D) Annually, the tax incentive review council shall 8431
review the compliance of each recipient of a tax exemption under 8432
Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 8433
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 8434
Revised Code with the nondiscriminatory hiring policies 8435
developed by the county, township, or municipal corporation 8436
under section 5709.832 of the Revised Code. Upon the request of 8437
the council, the recipient shall provide the council any 8438
information necessary to perform its review. On the basis of its 8439

review, the council may submit to the legislative authority 8440
written recommendations for enhancing compliance with the 8441
nondiscriminatory hiring policies. 8442

(E) A legislative authority that receives from a tax 8443
incentive review council written recommendations under division 8444
(C) (1) or (D) of this section shall, within sixty days after 8445
receipt, hold a meeting and vote to accept, reject, or modify 8446
all or any portion of the recommendations. 8447

(F) A tax incentive review council may request from the 8448
recipient of a tax exemption under Chapter 725. or 1728. or 8449
section 3735.67, 5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 8450
5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code any 8451
information reasonably necessary for the council to perform its 8452
review under this section. The request shall be in writing and 8453
shall be sent to the recipient by certified mail. Within ten 8454
days after receipt of the request, the recipient shall provide 8455
to the council the information requested. 8456

Sec. 5709.93. (A) As used in this section: 8457

(1) "Taxes charged and payable" means taxes charged and 8458
payable after the reduction required by section 319.301 of the 8459
Revised Code but before the reductions required by sections 8460
319.302 and 323.152 of the Revised Code. 8461

(2) "Threshold per cent" means two per cent for fiscal 8462
year 2016; and, for fiscal year 2017 and thereafter, the sum of 8463
the prior year's threshold per cent plus two percentage points. 8464

(3) "Public library" means a county, municipal, school 8465
district, or township public library that receives the proceeds 8466
of a tax levied under section 5705.23 of the Revised Code. 8467

(4) "Local taxing unit" means a subdivision or taxing 8468

unit, as defined in section 5705.01 of the Revised Code, a park 8469
district created under Chapter 1545. of the Revised Code, or a 8470
township park district established under section 511.23 of the 8471
Revised Code, but excludes school districts and joint vocational 8472
school districts. 8473

(5) "Municipal current expense allocation" means the sum 8474
of the payments received by a municipal corporation in calendar 8475
year 2014 for current expense levy losses under division (A) (1) 8476
(e) (ii) of section 5727.86 and division (A) (1) (c) (ii) of section 8477
5751.22 of the Revised Code as they existed at that time. 8478

(6) "Current expense allocation" means the sum of the 8479
payments received by a local taxing unit or public library in 8480
calendar year 2014 for current expense levy losses under 8481
division (A) (1) of section 5727.86 and divisions (A) (1) and (2) 8482
of section 5751.22 of the Revised Code as they existed at that 8483
time, less any reduction required under division (B) (2) of this 8484
section. 8485

(7) "TPP inside millage debt levy loss" means payments 8486
made to local taxing units in calendar year 2014 under division 8487
(A) (3) of section 5751.22 of the Revised Code as that section 8488
existed at that time. 8489

(8) "S.B. 3 inside millage debt levy loss" means payments 8490
made to local taxing units in calendar year 2014 under section 8491
(A) (4) of section 5727.86 of the Revised Code as that section 8492
existed at that time. 8493

(9) "Qualifying levy" means a levy for which payment was 8494
made in calendar year 2014 under division (A) (1) of section 8495
5727.86 and divisions (A) (1) and (2) of section 5751.22 of the 8496
Revised Code as they existed at that time. 8497

(10) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A) (10) (a) and (b) of this section less any reduction required under division (B) (1) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2014 under division (A) (1) of section 5727.86 and division (A) (1) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2014.

(11) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A) (11) (a) and (b) of this section less any reduction required under division (B) (1) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2014 under division (A) (1) of section 5727.86 and division (A) (1) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2014.

(12) "Total resources," in the case of county children's services related functions, means the sum of the amounts in

divisions (A) (12) (a) and (b) of this section less any reduction 8527
required under division (B) (1) of this section. 8528

(a) The sum of the payments received by the county for 8529
children's services related functions in calendar year 2014 8530
under division (A) (1) of section 5727.86 and division (A) (1) of 8531
section 5751.22 of the Revised Code as they existed at that 8532
time; 8533

(b) With respect to taxes levied by the county for 8534
children's services related purposes, the taxes charged and 8535
payable for such purposes against all property on the tax list 8536
of real and public utility property for tax year 2014. 8537

(13) "Total resources," in the case of county public 8538
health related functions, means the sum of the amounts in 8539
divisions (A) (13) (a) and (b) of this section less any reduction 8540
required under division (B) (1) of this section. 8541

(a) The sum of the payments received by the county for 8542
public health related functions in calendar year 2014 under 8543
division (A) (1) of section 5727.86 and division (A) (1) of 8544
section 5751.22 of the Revised Code as they existed at that 8545
time; 8546

(b) With respect to taxes levied by the county for public 8547
health related purposes, the taxes charged and payable for such 8548
purposes against all property on the tax list of real and public 8549
utility property for tax year 2014. 8550

(14) "Total resources," in the case of all county 8551
functions not included in divisions (A) (10) to (13) of this 8552
section, means the sum of the amounts in divisions (A) (14) (a) to 8553
(e) of this section less any reduction required under division 8554
(B) (1) or (2) of this section. 8555

(a) The sum of the payments received by the county for all 8556
other purposes in calendar year 2014 under division (A) (1) of 8557
section 5727.86 and division (A) (1) of section 5751.22 of the 8558
Revised Code as they existed at that time; 8559

(b) The county's percentage share of county undivided 8560
local government fund allocations as certified to the tax 8561
commissioner for calendar year 2015 by the county auditor under 8562
division (J) of section 5747.51 of the Revised Code or division 8563
(F) of section 5747.53 of the Revised Code multiplied by the 8564
total amount actually distributed in calendar year 2014 from the 8565
county undivided local government fund; 8566

(c) With respect to taxes levied by the county for all 8567
other purposes, the taxes charged and payable for such purposes 8568
against all property on the tax list of real and public utility 8569
property for tax year 2014, excluding taxes charged and payable 8570
for the purpose of paying debt charges; 8571

(d) The sum of the amounts distributed to the county in 8572
calendar year 2014 for the taxes levied pursuant to sections 8573
5739.021 and 5741.021 of the Revised Code; 8574

(e) The sum of amounts distributed to the county from the 8575
gross casino revenue county fund from July 2014 through April 8576
2015. 8577

(15) "Total resources," in the case of a municipal 8578
corporation, means the sum of the amounts in divisions (A) (15) 8579
(a) to (h) of this section less any reduction required under 8580
division (B) (1) or (2) of this section. 8581

(a) The sum of the payments received by the municipal 8582
corporation in calendar year 2014 for current expense levy 8583
losses under division (A) (1) of section 5727.86 and division (A) 8584

(1) of section 5751.22 of the Revised Code as they existed at 8585
that time; 8586

(b) The municipal corporation's percentage share of county 8587
undivided local government fund allocations as certified to the 8588
tax commissioner for calendar year 2015 by the county auditor 8589
under division (J) of section 5747.51 of the Revised Code or 8590
division (F) of section 5747.53 of the Revised Code multiplied 8591
by the total amount actually distributed in calendar year 2014 8592
from the county undivided local government fund; 8593

(c) The sum of the amounts distributed to the municipal 8594
corporation in calendar year 2014 pursuant to section 5747.50 of 8595
the Revised Code; 8596

(d) With respect to taxes levied by the municipal 8597
corporation, the taxes charged and payable against all property 8598
on the tax list of real and public utility property for 8599
municipal current expenses for tax year 2014; 8600

(e) The amount of admissions tax collected by the 8601
municipal corporation in calendar year 2013, or if such 8602
information has not yet been reported to the tax commissioner, 8603
in the most recent year before 2013 for which the municipal 8604
corporation has reported data to the commissioner; 8605

(f) The amount of income taxes collected by the municipal 8606
corporation in calendar year 2013 as certified to the tax 8607
commissioner under section 5747.50 of the Revised Code in 2013, 8608
or if such information has not yet been reported to the 8609
commissioner, in the most recent year before 2014 for which the 8610
municipal corporation has reported such data to the 8611
commissioner; 8612

(g) The sum of the amounts distributed to the municipal 8613

corporation from the gross casino revenue host city fund from 8614
July 2014 through April 2015; 8615

(h) The sum of the amounts distributed to the municipal 8616
corporation from the gross casino revenue county fund from July 8617
2014 through April 2015. 8618

(16) "Total resources," in the case of a township, means 8619
the sum of the amounts in divisions (A) (16) (a) to (c) of this 8620
section less any reduction required under division (B) (1) or (2) 8621
of this section. 8622

(a) The sum of the payments received by the township in 8623
calendar year 2014 pursuant to division (A) (1) of section 8624
5727.86 of the Revised Code and division (A) (1) of section 8625
5751.22 of the Revised Code as they existed at that time, 8626
excluding payments received for debt purposes; 8627

(b) The township's percentage share of county undivided 8628
local government fund allocations as certified to the tax 8629
commissioner for calendar year 2015 by the county auditor under 8630
division (J) of section 5747.51 of the Revised Code or division 8631
(F) of section 5747.53 of the Revised Code multiplied by the 8632
total amount actually distributed in calendar year 2014 from the 8633
county undivided local government fund; 8634

(c) With respect to taxes levied by the township, the 8635
taxes charged and payable against all property on the tax list 8636
of real and public utility property for tax year 2014 excluding 8637
taxes charged and payable for the purpose of paying debt charges 8638
or from levies imposed under section 5705.23 of the Revised 8639
Code. 8640

(17) "Total resources," in the case of a local taxing unit 8641
that is not a county, municipal corporation, township, or public 8642

library means the sum of the amounts in divisions (A) (17) (a) to 8643
(e) of this section less any reduction required under division 8644
(B) (1) of this section. 8645

(a) The sum of the payments received by the local taxing 8646
unit in calendar year 2014 pursuant to division (A) (1) of 8647
section 5727.86 of the Revised Code and division (A) (1) of 8648
section 5751.22 of the Revised Code as they existed at that 8649
time; 8650

(b) The local taxing unit's percentage share of county 8651
undivided local government fund allocations as certified to the 8652
tax commissioner for calendar year 2015 by the county auditor 8653
under division (J) of section 5747.51 of the Revised Code or 8654
division (F) of section 5747.53 of the Revised Code multiplied 8655
by the total amount actually distributed in calendar year 2014 8656
from the county undivided local government fund; 8657

(c) With respect to taxes levied by the local taxing unit, 8658
the taxes charged and payable against all property on the tax 8659
list of real and public utility property for tax year 2014 8660
excluding taxes charged and payable for the purpose of paying 8661
debt charges or from a levy imposed under section 5705.23 of the 8662
Revised Code; 8663

(d) The amount received from the tax commissioner during 8664
calendar year 2014 for sales or use taxes authorized under 8665
sections 5739.023 and 5741.022 of the Revised Code; 8666

(e) For institutions of higher education receiving tax 8667
revenue from a local levy, as identified in section 3358.02 of 8668
the Revised Code, the final state share of instruction 8669
allocation for fiscal year 2014 as calculated by the chancellor 8670
of higher education and reported to the state controlling board. 8671

(18) "Total resources," in the case of a county, municipal 8672
corporation, school district, or township public library that 8673
receives the proceeds of a tax levied under section 5705.23 of 8674
the Revised Code, means the sum of the amounts in divisions (A) 8675
(18) (a) to (d) of this section less any reduction required under 8676
division (B) (1) of this section. 8677

(a) The sum of the payments received by the county, 8678
municipal corporation, school district, or township public 8679
library in calendar year 2014 pursuant to sections 5727.86 and 8680
5751.22 of the Revised Code, as they existed at that time, for 8681
fixed-rate levy losses attributable to a tax levied under 8682
section 5705.23 of the Revised Code for the benefit of the 8683
public library; 8684

(b) The public library's percentage share of county 8685
undivided local government fund allocations as certified to the 8686
tax commissioner for calendar year 2015 by the county auditor 8687
under division (J) of section 5747.51 of the Revised Code or 8688
division (F) of section 5747.53 of the Revised Code multiplied 8689
by the total amount actually distributed in calendar year 2014 8690
from the county undivided local government fund; 8691

(c) With respect to a tax levied pursuant to section 8692
5705.23 of the Revised Code for the benefit of the public 8693
library, the amount of such tax that is charged and payable 8694
against all property on the tax list of real and public utility 8695
property for tax year 2014 excluding any tax that is charged and 8696
payable for the purpose of paying debt charges; 8697

(d) The sum of the amounts distributed to the library 8698
district from the county public library fund in calendar year 8699
2014, as reported to the tax commissioner by the county auditor. 8700

(19) "Municipal current expense property tax levies" means 8701
all property tax levies of a municipality, except those with the 8702
following levy names: library; airport resurfacing; bond or any 8703
levy name including the word "bond"; capital improvement or any 8704
levy name including the word "capital"; debt or any levy name 8705
including the word "debt"; equipment or any levy name including 8706
the word "equipment," unless the levy is for combined operating 8707
and equipment; employee termination fund; fire pension or any 8708
levy containing the word "pension," including police pensions; 8709
fireman's fund or any practically similar name; sinking fund; 8710
road improvements or any levy containing the word "road"; fire 8711
truck or apparatus; flood or any levy containing the word 8712
"flood"; conservancy district; county health; note retirement; 8713
sewage, or any levy containing the words "sewage" or "sewer"; 8714
park improvement; parkland acquisition; storm drain; street or 8715
any levy name containing the word "street"; lighting, or any 8716
levy name containing the word "lighting"; and water. 8717

(20) "Operating fixed-rate levy loss" means, in the case 8718
of local taxing units other than municipal corporations, fixed- 8719
rate levy losses of levies imposed for purposes other than 8720
paying debt charges or, in the case of municipal corporations, 8721
fixed-rate levy losses of municipal current expense property tax 8722
levies. 8723

~~(22)~~(21)(a) "Qualifying municipal corporation" means a 8724
municipal corporation in the territory of which a qualifying end 8725
user is located. 8726

(b) "Qualifying end user" means an end user of at least 8727
seven million qualifying kilowatt hours of electricity annually. 8728

(c) "Qualifying kilowatt hours" means kilowatt hours of 8729
electricity generated by a renewable energy resource, as defined 8730

in section 5727.01 of the Revised Code, using wind energy and 8731
the distribution of which is subject to the tax levied under 8732
section 5727.81 of the Revised Code for any measurement period 8733
beginning after June 30, 2015. 8734

~~(23)~~(22) Any term used in this section has the same 8735
meaning as in section 5727.84 or 5751.20 of the Revised Code 8736
unless otherwise defined by this section. 8737

(B) (1) "Total resources" used to compute payments to be 8738
made under division (C) of this section shall be reduced to the 8739
extent that payments distributed in calendar year 2014 were 8740
attributable to levies no longer charged and payable. 8741

(2) "Current expense allocation" used to compute payments 8742
to be made under division (C) of this section shall be reduced 8743
to the extent that payments distributed in calendar year 2014 8744
were attributable to levies no longer charged and payable. 8745

(C) (1) Except as provided in ~~divisions~~division (D) of 8746
this section, the tax commissioner shall compute payments for 8747
operating fixed-rate levy losses of local taxing units and 8748
public libraries for fiscal year 2016 and each year thereafter 8749
as prescribed in divisions (C) (1) (a) and (b) ~~and~~ of this 8750
section: 8751

(a) For public libraries and local taxing units other than 8752
municipal corporations: 8753

(i) If the ratio of current expense allocation to total 8754
resources is equal to or less than the threshold per cent, zero; 8755

(ii) If the ratio of current expense allocation to total 8756
resources is greater than the threshold per cent, the current 8757
expense allocation minus the product of total resources 8758
multiplied by the threshold per cent. 8759

(b) For municipal corporations: 8760

(i) If the ratio of the municipal current expense 8761
allocation to total resources is equal to or less than the 8762
threshold per cent, zero; 8763

(ii) If the ratio of the municipal current expense 8764
allocation to total resources is greater than the threshold per 8765
cent, the municipal current expense allocation minus the product 8766
of total resources multiplied by the threshold per cent. 8767

~~(3)~~(2) For any local taxing unit or public library with 8768
operating fixed-rate levy losses greater than zero, the 8769
operating fixed-rate levy loss shall be allocated among all 8770
qualifying operating fixed-rate levies in proportion to each 8771
such levy's share of the payments received in tax year 2014. In 8772
fiscal year 2016 and thereafter, if a levy to which operating 8773
fixed-rate levy loss is allocated is no longer charged and 8774
payable, the payment to the local taxing unit or public library 8775
shall be reduced by the amount allocated to the levy that is no 8776
longer charged and payable. 8777

(D) (1) Except as provided in division (D) (2) of this 8778
section, the tax commissioner shall make payments to local 8779
taxing units equal to the sum of TPP inside millage debt levy 8780
loss and S.B. 3 inside millage debt levy loss. No payment shall 8781
be made if the levy for which the levy loss is computed is not 8782
charged and payable for debt purposes in fiscal year 2016 or any 8783
year thereafter. 8784

(2) No payment shall be made for TPP inside millage debt 8785
levy loss in calendar year 2018 or thereafter. No payment shall 8786
be made for S.B.3 inside millage debt levy loss in calendar year 8787
2017 or thereafter. 8788

(E) For a qualifying municipal corporation, the tax commissioner shall compute payments for fiscal year 2016 and each ensuing fiscal year in an amount equal to the amount of tax imposed under section 5727.81 of the Revised Code and paid on the basis of qualifying kilowatt hours of electricity distributed through the meter of a qualifying end user located in the municipal corporation for measurement periods ending in the preceding calendar year. The payment shall be computed regardless of whether the qualifying municipal corporation qualifies for a payment under any other division of this section for the fiscal year in which the payment is computed under this division. For the purposes of this division, the commissioner may require an electric distribution company distributing qualifying kilowatt hours or, if the end user is a self-assessing purchaser, the end user, to report to the commissioner the number of qualifying kilowatt hours distributed through the meter of the qualifying end user.

(F) (1) The payments required to be made under divisions (C) and (D) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. Beginning in August 2015, one-half of the amount determined under each of those divisions shall be paid on or before the last day of August each year, and one-half shall be paid on or before the last day of February each year. Within thirty days after receipt of such payments, the county treasurer shall distribute amounts determined under this section to the proper local taxing unit or public library as if they had been levied and collected as taxes, and the local taxing unit or public library shall allocate the amounts so received among its funds in the same proportions as if those amounts had been levied and

collected as taxes. 8820

(2) On or before the last day of August and of February of 8821
each fiscal year that follows a calendar year in which taxes are 8822
paid on the basis of qualifying kilowatt hours of electricity 8823
distributed through the meter of a qualifying end user located 8824
in a qualifying municipal corporation, one-half of the payment 8825
computed under division (E) of this section shall be paid from 8826
the local government tangible personal property tax replacement 8827
fund directly to the qualifying municipal corporation. The 8828
municipal corporation shall credit the payments to a special 8829
fund created for the purpose of providing grants or other 8830
financial assistance to the qualifying end user or to compensate 8831
the municipal corporation for municipal income tax or other tax 8832
credits or reductions as the legislative authority may grant to 8833
the qualifying end user. Such grants or other financial 8834
assistance may be provided for by ordinance or resolution of the 8835
legislative authority of the qualifying municipal corporation 8836
and may continue for as long as is provided by the ordinance or 8837
resolution. 8838

(G) If all or a part of the territories of two or more 8839
local taxing units are merged, or unincorporated territory of a 8840
township is annexed by a municipal corporation, the tax 8841
commissioner shall adjust the payments made under this section 8842
to each of the local taxing units in proportion to the square 8843
mileage of the merged or annexed territory as a percentage of 8844
the total square mileage of the jurisdiction from which the 8845
territory originated, or as otherwise provided by a written 8846
agreement between the legislative authorities of the local 8847
taxing units certified to the commissioner not later than the 8848
first day of June of the calendar year in which the payment is 8849
to be made. 8850

Sec. 5713.03. The county auditor, from the best sources of information available, shall determine, as nearly as practicable, the true value of the fee simple estate, as if unencumbered but subject to any effects from the exercise of police powers or from other governmental actions, of each separate tract, lot, or parcel of real property and of buildings, structures, and improvements located thereon and the current agricultural use value of land valued for tax purposes in accordance with section 5713.31 of the Revised Code, in every district, according to the rules prescribed by this chapter and section 5715.01 of the Revised Code, and in accordance with the uniform rules and methods of valuing and assessing real property as adopted, prescribed, and promulgated by the tax commissioner. The auditor shall determine the taxable value of all real property by reducing its true or current agricultural use value by the percentage ordered by the commissioner. In determining the true value of any tract, lot, or parcel of real estate under this section, if such tract, lot, or parcel has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time, either before or after the tax lien date, the auditor may consider the sale price of such tract, lot, or parcel to be the true value for taxation purposes. However, the sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the property sold if subsequent to the sale:

(A) The tract, lot, or parcel of real estate loses value due to some casualty;

(B) An improvement is added to the property. ~~Nothing~~

Nothing in this section or section 5713.01 of the Revised

Code and no rule adopted under section 5715.01 of the Revised 8881
Code shall require the county auditor to change the true value 8882
in money of any property in any year except a year in which the 8883
tax commissioner is required to determine under section 5715.24 8884
of the Revised Code whether the property has been assessed as 8885
required by law. 8886

The county auditor shall adopt and use a real property 8887
record approved by the commissioner for each tract, lot, or 8888
parcel of real property, setting forth the true and taxable 8889
value of land and, in the case of land valued in accordance with 8890
section 5713.31 of the Revised Code, its current agricultural 8891
use value, the number of acres of arable land, permanent pasture 8892
land, woodland, and wasteland in each tract, lot, or parcel. The 8893
auditor shall record pertinent information and the true and 8894
taxable value of each building, structure, or improvement to 8895
land, which value shall be included as a separate part of the 8896
total value of each tract, lot, or parcel of real property. 8897

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 8898
5715.01 of the Revised Code: 8899

(A) "Land devoted exclusively to agricultural use" means: 8900

(1) Tracts, lots, or parcels of land totaling not less 8901
than ten acres to which, during the three calendar years prior 8902
to the year in which application is filed under section 5713.31 8903
of the Revised Code, and through the last day of May of such 8904
year, one or more of the following apply: 8905

(a) The tracts, lots, or parcels of land were devoted 8906
exclusively to commercial animal or poultry husbandry, 8907
aquaculture, algaculture meaning the farming of algae, 8908
apiculture, the production for a commercial purpose of timber, 8909

field crops, tobacco, fruits, vegetables, nursery stock, 8910
ornamental trees, sod, or flowers, or the growth of timber for a 8911
noncommercial purpose, if the land on which the timber is grown 8912
is contiguous to or part of a parcel of land under common 8913
ownership that is otherwise devoted exclusively to agricultural 8914
use. 8915

(b) The tracts, lots, or parcels of land were devoted 8916
exclusively to biodiesel production, biomass energy production, 8917
electric or heat energy production, or biologically derived 8918
methane gas production if the land on which the production 8919
facility is located is contiguous to or part of a parcel of land 8920
under common ownership that is otherwise devoted exclusively to 8921
agricultural use, provided that at least fifty per cent of the 8922
feedstock used in the production was derived from parcels of 8923
land under common ownership or leasehold. 8924

(c) The tracts, lots, or parcels of land were devoted to 8925
and qualified for payments or other compensation under a land 8926
retirement or conservation program under an agreement with an 8927
agency of the federal government. 8928

(2) Tracts, lots, or parcels of land totaling less than 8929
ten acres that, during the three calendar years prior to the 8930
year in which application is filed under section 5713.31 of the 8931
Revised Code and through the last day of May of such year, were 8932
devoted exclusively to commercial animal or poultry husbandry, 8933
aquaculture, algaculture meaning the farming of algae, 8934
apiculture, the production for a commercial purpose of field 8935
crops, tobacco, fruits, vegetables, timber, nursery stock, 8936
ornamental trees, sod, or flowers where such activities produced 8937
an average yearly gross income of at least twenty-five hundred 8938
dollars during such three-year period or where there is evidence 8939

of an anticipated gross income of such amount from such 8940
activities during the tax year in which application is made, or 8941
were devoted to and qualified for payments or other compensation 8942
under a land retirement or conservation program under an 8943
agreement with an agency of the federal government; 8944

~~(3) A tract, lot, or parcel of land taxed under sections 8945
5713.22 to 5713.26 of the Revised Code is not land devoted 8946
exclusively to agricultural use. 8947~~

~~(4)~~ Tracts, lots, or parcels of land, or portions thereof 8948
that, during the previous three consecutive calendar years have 8949
been designated as land devoted exclusively to agricultural use, 8950
but such land has been lying idle or fallow for up to one year 8951
and no action has occurred to such land that is either 8952
inconsistent with the return of it to agricultural production or 8953
converts the land devoted exclusively to agricultural use as 8954
defined in this section. Such land shall remain designated as 8955
land devoted exclusively to agricultural use provided that 8956
beyond one year, but less than three years, the landowner proves 8957
good cause as determined by the board of revision. 8958

~~(5)~~ (4) Tracts, lots, or parcels of land, or portions 8959
thereof that, during the previous three consecutive calendar 8960
years have been designated as land devoted exclusively to 8961
agricultural use, but such land has been lying idle or fallow 8962
because of dredged material being stored or deposited on such 8963
land pursuant to a contract between the land's owner and the 8964
department of natural resources or the United States army corps 8965
of engineers and no action has occurred to the land that is 8966
either inconsistent with the return of it to agricultural 8967
production or converts the land devoted exclusively to 8968
agricultural use. Such land shall remain designated as land 8969

devoted exclusively to agricultural use until the last year in 8970
which dredged material is stored or deposited on the land 8971
pursuant to such a contract, but not to exceed five years. 8972

"Land devoted exclusively to agricultural use" includes 8973
tracts, lots, or parcels of land or portions thereof that are 8974
used for conservation practices, provided that the tracts, lots, 8975
or parcels of land or portions thereof comprise twenty-five per 8976
cent or less of the total of the tracts, lots, or parcels of 8977
land that satisfy the criteria established in division (A) (1), 8978
(2), ~~(4)~~(3), or ~~(5)~~(4) of this section together with the 8979
tracts, lots, or parcels of land or portions thereof that are 8980
used for conservation practices. 8981

Notwithstanding any other provision of law to the 8982
contrary, the existence of agritourism on a tract, lot, or 8983
parcel of land that otherwise meets the definition of "land 8984
devoted exclusively to agricultural use" as defined in this 8985
division does not disqualify that tract, lot, or parcel from 8986
valuation under sections 5713.30 to 5713.37 and 5715.01 of the 8987
Revised Code. 8988

A tract, lot, or parcel of land taxed under sections 8989
5713.22 to 5713.26 of the Revised Code is not land devoted 8990
exclusively to agricultural use. 8991

A tract, lot, parcel, or portion thereof on which medical 8992
marijuana, as defined by section 3796.01 of the Revised Code, is 8993
cultivated or processed is not land devoted exclusively to 8994
agricultural use. 8995

(B) "Conversion of land devoted exclusively to 8996
agricultural use" means any of the following: 8997

(1) The failure of the owner of land devoted exclusively 8998

to agricultural use during the next preceding calendar year to 8999
file a renewal application under section 5713.31 of the Revised 9000
Code without good cause as determined by the board of revision; 9001

(2) The failure of the new owner of such land to file an 9002
initial application under that section without good cause as 9003
determined by the board of revision; 9004

(3) The failure of such land or portion thereof to qualify 9005
as land devoted exclusively to agricultural use for the current 9006
calendar year as requested by an application filed under such 9007
section; 9008

(4) The failure of the owner of the land described in 9009
division (A) ~~(4)~~ (3) or ~~(5)~~ (4) of this section to act on such 9010
land in a manner that is consistent with the return of the land 9011
to agricultural production after three years. 9012

The construction or installation of an energy facility, as 9013
defined in section 5727.01 of the Revised Code, on a portion of 9014
a tract, lot, or parcel of land devoted exclusively to 9015
agricultural use shall not cause the remaining portion of the 9016
tract, lot, or parcel to be regarded as a conversion of land 9017
devoted exclusively to agricultural use if the remaining portion 9018
of the tract, lot, or parcel continues to be devoted exclusively 9019
to agricultural use. 9020

(C) "Tax savings" means the difference between the dollar 9021
amount of real property taxes levied in any year on land valued 9022
and assessed in accordance with its current agricultural use 9023
value and the dollar amount of real property taxes that would 9024
have been levied upon such land if it had been valued and 9025
assessed for such year in accordance with Section 2 of Article 9026
XII, Ohio Constitution. 9027

(D) "Owner" includes, but is not limited to, any person 9028
owning a fee simple, fee tail, or life estate or a buyer on a 9029
land installment contract. 9030

(E) "Conservation practices" are practices used to abate 9031
soil erosion as required in the management of the farming 9032
operation, and include, but are not limited to, the 9033
installation, construction, development, planting, or use of 9034
grass waterways, terraces, diversions, filter strips, field 9035
borders, windbreaks, riparian buffers, wetlands, ponds, and 9036
cover crops for that purpose. 9037

(F) "Wetlands" has the same meaning as in section 6111.02 9038
of the Revised Code. 9039

(G) "Biodiesel" means a mono-alkyl ester combustible 9040
liquid fuel that is derived from vegetable oils or animal fats 9041
or any combination of those reagents and that meets the American 9042
society for testing and materials specification D6751-03a for 9043
biodiesel fuel (B100) blend stock distillate fuels. 9044

(H) "Biologically derived methane gas" means gas from the 9045
anaerobic digestion of organic materials, including animal waste 9046
and agricultural crops and residues. 9047

(I) "Biomass energy" means energy that is produced from 9048
organic material derived from plants or animals and available on 9049
a renewable basis, including, but not limited to, agricultural 9050
crops, tree crops, crop by-products, and residues. 9051

(J) "Electric or heat energy" means electric or heat 9052
energy generated from manure, cornstalks, soybean waste, or 9053
other agricultural feedstocks. 9054

(K) "Dredged material" means material that is excavated or 9055
dredged from waters of this state. "Dredged material" does not 9056

include material resulting from normal farming, silviculture, 9057
and ranching activities, such as plowing, cultivating, seeding, 9058
and harvesting, for production of food, fiber, and forest 9059
products. 9060

~~(K)~~(L) "Agritourism" has the same meaning as in section 9061
901.80 of the Revised Code. 9062

Sec. 5713.351. If the county auditor has determined under 9063
section 5713.35 of the Revised Code that a conversion of land 9064
has occurred with respect to any tract, lot, or parcel on the 9065
agricultural land tax list because of a failure to file an 9066
initial or renewal application, and if the auditor, upon 9067
application of the owner and payment by the owner of a twenty- 9068
five-dollar fee, finds that the land would be land devoted 9069
exclusively to agricultural use for the current year if the 9070
board of revision finds the failure arose for good cause, the 9071
owner may file a complaint against that determination with the 9072
board as provided in section 5715.19 of the Revised Code on the 9073
grounds that the tract, lot, or parcel is land devoted 9074
exclusively to agricultural use because there was good cause for 9075
the owner's failure to file an initial or renewal application. 9076
If the board finds that there was such good cause, the 9077
application under this section shall be considered an 9078
application that was properly filed under section 5713.31 of the 9079
Revised Code. 9080

Sec. 5715.13. (A) Except as provided in division (B) of 9081
this section, the county board of revision shall not decrease 9082
any valuation unless a party affected thereby or who is 9083
authorized to file a complaint under section 5715.19 of the 9084
Revised Code makes and files with the board a written 9085
application therefor, verified by oath and signature, showing 9086

the facts upon which it is claimed such decrease should be made. 9087

(B) The county board of revision may authorize a policy 9088
for the filing of an electronic complaint under section 5715.19 9089
of the Revised Code and the filing of an electronic application 9090
therefor under this section, subject to the approval of the tax 9091
commissioner. An electronic complaint need not be sworn to, but 9092
shall contain an electronic verification and shall be subscribed 9093
to by the person filing the complaint: "I declare under 9094
penalties of perjury that this complaint has been examined by me 9095
and to the best of my knowledge and belief is true, correct, and 9096
complete." 9097

Sec. 5715.36. (A) Any expense incurred by the tax 9098
commissioner as to the annual assessment of real property in any 9099
taxing district shall be paid out of the treasury of the county 9100
in which such district is located upon presentation of the order 9101
of the commissioner certifying the amount thereof to the county 9102
auditor, who shall thereupon issue a warrant therefor upon the 9103
general fund of the county and direct the warrant to the county 9104
treasurer, who shall pay the same. All money paid out of the 9105
county treasury under authority of this division and section 9106
5703.30 of the Revised Code shall be charged against the proper 9107
district, and amounts paid by the county shall be retained by 9108
the auditor from funds due such district at the time of making 9109
the semiannual distribution of taxes. 9110

(B) Any expense incurred by the board of tax appeals as to 9111
the hearing of any appeal from a county budget commission with 9112
respect to the allocation of the local government fund or the 9113
county public library fund shall be paid out of the treasury of 9114
the county involved upon presentation of the order of the board 9115
certifying the amount thereof to the county auditor, who shall 9116

thereupon issue a warrant therefor upon the general fund of the 9117
county and direct the warrant to the county treasurer, who shall 9118
pay the same. At the time the local government fund or the 9119
county public library fund is distributed, all money which had 9120
been paid out of the county treasury for such expenses shall be 9121
deducted by the county auditor from the fund involved in the 9122
appeal. The amount so deducted by the county auditor shall be 9123
forthwith returned to the general fund of the county. 9124

(C) An amount equal to the sum of the expenses incurred by 9125
the board of tax appeals as to any of the following shall be 9126
paid out of the general fund of the county in which such 9127
property is located upon presentation of the order of the board 9128
certifying the amount thereof to the county auditor, who shall 9129
thereupon issue a warrant therefor upon the general fund of the 9130
county and direct the warrant to the county treasurer, who shall 9131
pay the same: 9132

(1) The hearing of any appeal from a county board of 9133
revision under section 5717.01 of the Revised Code; 9134

(2) An appeal from any finding, computation, 9135
determination, or order of the tax commissioner made with 9136
respect to the assessment or exemption of real property under 9137
~~division (B) of section 5715.61 and~~ section 5717.02 of the 9138
Revised Code. At the time of each settlement of taxes under 9139
divisions (A) and (C) of section 321.24 of the Revised Code, 9140
there shall be deducted from the taxes included in such 9141
settlement and paid into the county general fund in the same 9142
manner as the fees allowed the county treasurer on amounts 9143
included in such settlement, the amounts paid out under this 9144
division since the preceding settlement. Each deduction shall be 9145
apportioned among the taxing districts within which the property 9146

that was the subject of the appeal is located in proportion to 9147
their relative shares of their respective taxes included in the 9148
settlement. 9149

Sec. 5721.06. (A) (1) The form of the notice required to be 9150
attached to the published delinquent tax list by division (B) (3) 9151
of section 5721.03 of the Revised Code shall be in substance as 9152
follows: 9153

"DELINQUENT LAND TAX NOTICE 9154

The lands, lots, and parts of lots returned delinquent by 9155
the county treasurer of county, with the 9156
taxes, assessments, interest, and penalties, charged against 9157
them agreeably to law, are contained and described in the 9158
following list: (Here insert the list with the names of the 9159
owners of such respective tracts of land or town lots as 9160
designated on the delinquent tax list. If, prior to seven days 9161
before the publication of the list, a delinquent tax contract 9162
has been entered into under section 323.31 of the Revised Code, 9163
the owner's name may be stricken from the list or designated by 9164
an asterisk shown in the margin next to the owner's name.) 9165

Notice is hereby given that the whole of such several 9166
lands, lots, or parts of lots will be certified for foreclosure 9167
by the county auditor pursuant to law unless the whole of the 9168
delinquent taxes, assessments, interest, and penalties are paid 9169
within one year or unless a tax certificate with respect to the 9170
parcel is sold under section 5721.32 or 5721.33 of the Revised 9171
Code. The names of persons who have entered into a written 9172
delinquent tax contract with the county treasurer to discharge 9173
the delinquency are designated by an asterisk or have been 9174
stricken from the list." 9175

(2) If the county treasurer has certified to the county auditor that the treasurer intends to offer for sale or assign a tax certificate with respect to one or more parcels of delinquent land under section 5721.32 or 5721.33 of the Revised Code, the form of the notice shall include the following statement, appended after the second paragraph of the notice prescribed by division (A)(1) of this section:

"Notice also is hereby given that a tax certificate may be offered for sale or assigned under section 5721.32 or 5721.33 of the Revised Code with respect to those parcels shown on this list. If a tax certificate on a parcel is purchased, the purchaser of the tax certificate acquires the state's or its taxing district's first lien against the property, and an additional interest charge of up to eighteen per cent per annum shall be assessed against the parcel. In addition, failure by the owner of the parcel to redeem the tax certificate may result in foreclosure proceedings against the parcel. No tax certificate shall be offered for sale if the owner of the parcel has either discharged the lien by paying to the county treasurer in cash the amount of delinquent taxes, assessments, penalties, interest, and charges charged against the property, or has entered into a valid delinquent tax contract pursuant to section 323.31 of the Revised Code to pay those amounts in installments."

(B) The form of the notice required to be attached to the published delinquent vacant land tax list by division (B)(3) of section 5721.03 of the Revised Code shall be in substance as follows:

"DELINQUENT VACANT LAND TAX NOTICE

The delinquent vacant lands, returned delinquent by the

county treasurer of..... county, with the taxes, 9206
assessments, interest, and penalties charged against them 9207
according to law, and remaining delinquent for one year, are 9208
contained and described in the following list: (here insert the 9209
list with the names of the owners of the respective tracts of 9210
land as designated on the delinquent vacant land tax list. If, 9211
prior to seven days before the publication of the list, a 9212
delinquent tax contract has been entered into under section 9213
323.31 of the Revised Code, the owner's name may be stricken 9214
from the list or designated by an asterisk shown in the margin 9215
next to the owner's name.) 9216

Notice is hereby given that these delinquent vacant lands 9217
will be certified for foreclosure or foreclosure and forfeiture 9218
by the county auditor pursuant to law unless the whole of the 9219
delinquent taxes, assessments, interest, and penalties are paid 9220
within twenty-eight days after the final publication of this 9221
notice. The names of persons who have entered into a written 9222
delinquent tax contract with the county treasurer to discharge 9223
the delinquency are designated by an asterisk or have been 9224
stricken from the list." 9225

Sec. 5721.191. (A) Subject to division (B) of this 9226
section, the form for the advertisement of a sale conducted 9227
pursuant to section 5721.19 of the Revised Code shall be as 9228
follows: 9229

"Notice of sale under judgment of foreclosure of liens 9230

for delinquent land taxes 9231

In the court of, Ohio 9232

case no. 9233

in the matter of foreclosure of liens for 9234

delinquent land taxes	9235
county treasurer of, Ohio	9236
Plaintiff,	9237
vs.	9238
parcels of land encumbered with delinquent	9239
tax liens,	9240
Defendants.	9241
	9242
Whereas, judgment has been rendered against certain	9243
parcels of real property for taxes, assessments, charges,	9244
penalties, interest, and costs as follows:	9245
(Here set out, for each parcel, the respective permanent	9246
parcel number, full street address, description of the parcel,	9247
name and address of the last known owners of the parcel as shown	9248
on the general tax list, and total amount of the judgment) and;	9249
Whereas, such judgment orders such real property to be	9250
sold or otherwise disposed of according to law by the	9251
undersigned to satisfy the total amount of such judgment;	9252
Now, therefore, public notice is hereby given that	9253
I, (officer) of,	9254
Ohio, will either dispose of such property according to law or	9255
sell such real property at public auction, for cash, to the	9256
highest bidder of an amount that equals at least (insert here,	9257
as in the court's order, the fair market value of the parcel as	9258
determined by the county auditor, or the total amount of the	9259
judgment, including all taxes, assessments, charges, penalties,	9260
and interest payable subsequent to the delivery to the	9261

prosecuting attorney of the delinquent land tax certificate or 9262
master list of delinquent tracts and prior to the transfer of 9263
the deed of the property to the purchaser following confirmation 9264
of sale), between the hours of a.m. and p.m., 9265
at (address and location) in, Ohio, 9266
on, the day of, If 9267
any parcel does not receive a sufficient bid or is not otherwise 9268
disposed of according to law, it may be offered for sale, under 9269
the same terms and conditions of the first sale and at the same 9270
time of day and at the same place, on, 9271
the day of, ..., for an amount that 9272
equals at least (insert here, as in the court's order, the fair 9273
market value of the parcel as determined by the county auditor, 9274
or the total amount of the judgment, including all taxes 9275
assessments, charges, penalties, and interest payable subsequent 9276
to the delivery to the prosecuting attorney of the delinquent 9277
land tax certificate or master list of delinquent tracts and 9278
prior to the transfer of the deed of the property to the 9279
purchaser following confirmation of sale)."

(B) If the title search required by division (B) of 9281
section 5721.18 of the Revised Code that relates to a parcel 9282
subject to an in rem action under that division, or if the title 9283
search that relates to a parcel subject to an in personam action 9284
under division (A) of section 5721.18 of the Revised Code, 9285
indicates that a federal tax lien exists relative to the parcel, 9286
then the form of the advertisement of sale as described in 9287
division (A) of this section additionally shall include the 9288
following statement in boldface type: 9289

"PUBLIC NOTICE IS HEREBY GIVEN THAT (INSERT HERE THE 9290
DESCRIPTION OF EACH RELEVANT PARCEL) TO BE SOLD AT PUBLIC 9291
AUCTION IS SUBJECT TO A FEDERAL TAX LIEN THAT MAY NOT BE 9292

EXTINGUISHED BY THE SALE.	9293
.....	9294
(officer)"	9295
(C) If the proceedings for foreclosure were instituted	9296
under division (C) of section 5721.18 of the Revised Code, then	9297
the form of the advertisement of sale as described in division	9298
(A) of this section additionally shall include the following	9299
statement in boldface type:	9300
"Public notice is hereby given that (insert here the	9301
description of each relevant parcel) to be sold at public	9302
auction will be sold subject to all liens and encumbrances with	9303
respect to the parcel, other than the liens for land taxes,	9304
assessments, charges, penalties, and interest for which the lien	9305
was foreclosed and in satisfaction of which the property is	9306
sold.	9307
.....	9308
(officer)"	9309
Sec. 5721.39. (A) In its judgment of foreclosure rendered	9310
in actions filed pursuant to section 5721.37 of the Revised	9311
Code, the court or board of revision shall enter a finding that	9312
includes all of the following with respect to the certificate	9313
parcel:	9314
(1) The amount of the sum of the certificate redemption	9315
prices for all the tax certificates sold against the parcel;	9316
(2) Interest on the certificate purchase prices of all	9317
certificates at the rate of eighteen per cent per year for the	9318
period beginning on the day on which the payment was submitted	9319
by the certificate holder under division (B) of section 5721.37	9320

of the Revised Code; 9321

(3) The amount paid under division (B) (2) of section 9322
5721.37 of the Revised Code, plus interest at the rate of 9323
eighteen per cent per year for the period beginning on the day 9324
the certificate holder filed a request for foreclosure or a 9325
notice of intent to foreclose under division (A) of that 9326
section; 9327

(4) Any delinquent taxes on the parcel that are not 9328
covered by a payment under division (B) (2) of section 5721.37 of 9329
the Revised Code; 9330

(5) Fees and costs incurred in the foreclosure proceeding 9331
instituted against the parcel, including, without limitation, 9332
the fees and costs of the prosecuting attorney represented by 9333
the fee paid under division (B) (3) of section 5721.37 of the 9334
Revised Code, plus interest as provided in division (D) (2) (d) of 9335
this section, or the fees and costs of the private attorney 9336
representing the certificate holder, and charges paid or 9337
incurred in procuring title searches and abstracting services 9338
relative to the subject premises. 9339

(B) The court or board of revision may order the 9340
certificate parcel to be sold or otherwise transferred according 9341
to law, without appraisal and as set forth in the prayer of the 9342
complaint, for not less than the amount of its finding, or, in 9343
the event that the true value of the certificate parcel as 9344
determined by the county auditor is less than the certificate 9345
redemption price, the court or board of revision may, as prayed 9346
for in the complaint, issue a decree transferring fee simple 9347
title free and clear of all subordinate liens to the certificate 9348
holder or as otherwise provided in sections 323.65 to 323.79 of 9349
the Revised Code. A decree of the court or board of revision 9350

transferring fee simple title to the certificate holder is 9351
forever a bar to all rights of redemption with respect to the 9352
certificate parcel. 9353

(C) (1) The certificate holder may file a motion with the 9354
court for an order authorizing a specified private selling 9355
officer, as defined in section 2329.01 of the Revised Code, to 9356
sell the parcel at a public auction. If the court authorizes a 9357
private selling officer to sell the parcel, then upon the filing 9358
of a praecipe for order of sale with the clerk of the court, the 9359
clerk of the court shall immediately issue an order of sale to 9360
the private selling officer authorized by the court. 9361

(2) The officer to whom the order of sale is directed may 9362
conduct the public auction of the parcel at a physical location 9363
in the county in which the parcel is located or online. If the 9364
public auction occurs online, the auction shall be open for 9365
bidding for seven days. If the parcel is not sold during this 9366
initial seven-day period, a second online auction shall be held 9367
not earlier than three days or later than thirty days after the 9368
end of the first auction. The second online auction shall be 9369
open for bidding for seven days. 9370

(3) A private selling officer who conducts an auction of 9371
the parcel under this section may do any of the following: 9372

(a) Market the parcels for sale and hire a title insurance 9373
agent licensed under Chapter 3953. of the Revised Code or title 9374
insurance company authorized to do business under that chapter 9375
to assist the private selling officer in performing 9376
administrative services; 9377

(b) Execute to the purchaser, or to the purchaser's legal 9378
representatives, a deed of conveyance of the parcel sold in 9379

conformity with the form set forth in section 5302.31 of the Revised Code;

(c) Record on behalf of the purchaser the deed conveying title to the parcel sold, notwithstanding that the deed may not actually have been delivered to the purchaser prior to its recording.

(4) By placing a bid at a sale conducted pursuant to this section, a purchaser appoints the private selling officer who conducts the sale as agent of the purchaser for the sole purpose of accepting delivery of the deed.

(5) The private selling officer who conducts the sale shall hire a title insurance agent licensed under Chapter 3953. of the Revised Code or title insurance company authorized to do business under that chapter to perform title, escrow, and closing services related to the sale of the parcel.

(6) Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code, and the alternative redemption period thereunder, each certificate parcel shall be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of certificate parcels shall be published once a week for three consecutive weeks and shall include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement.

Except as otherwise provided in sections 323.65 to 323.79 of the Revised Code, whenever the officer charged to conduct the sale offers a certificate parcel for sale at a physical location and not online and no bids are made equal to at least the amount

of the finding of the court or board of revision, the officer 9409
shall adjourn the sale of the parcel to the second date that was 9410
specified in the advertisement of sale. The second sale shall be 9411
held at the same place and commence at the same time as set 9412
forth in the advertisement of sale. The officer shall offer any 9413
parcel not sold at the first sale. Upon the conclusion of any 9414
sale, or if any parcel remains unsold after being offered at two 9415
sales, the officer conducting the sale shall report the results 9416
to the court or board of revision. 9417

(D) Upon the confirmation of a sale, the proceeds of the 9418
sale shall be applied as follows: 9419

(1) The fees and costs incurred in the proceeding filed 9420
against the parcel pursuant to section 5721.37 of the Revised 9421
Code shall be paid first, including attorney's fees of the 9422
certificate holder's attorney payable under division (F) of that 9423
section, private selling officer's fees and marketing costs, 9424
title agent's or title company's fees, or the county 9425
prosecutor's costs covered by the fee paid by the certificate 9426
holder under division (B) (3) of that section. 9427

(2) Following the payment required by division (D) (1) of 9428
this section, the certificate holder that filed the notice of 9429
intent to foreclose or request for foreclosure with the county 9430
treasurer shall be paid the sum of the following amounts: 9431

(a) The sum of the amount found due for the certificate 9432
redemption prices of all the tax certificates that are sold 9433
against the parcel; 9434

(b) Any premium paid by the certificate holder at the time 9435
of purchase; 9436

(c) Interest on the amounts paid by the certificate holder 9437

under division (B) (1) of section 5721.37 of the Revised Code at 9438
the rate of eighteen per cent per year beginning on the day on 9439
which the payment was submitted by the certificate holder to the 9440
county treasurer and ending on the day immediately preceding the 9441
day on which the proceeds of the foreclosure sale are paid to 9442
the certificate holder; 9443

(d) Interest on the amounts paid by the certificate holder 9444
under divisions (B) (2) and (3) of section 5721.37 of the Revised 9445
Code at the rate of eighteen per cent per year beginning on the 9446
day on which the payment was submitted by the certificate holder 9447
under divisions (B) (2) and (3) of that section and ending on the 9448
day immediately preceding the day on which the proceeds of the 9449
foreclosure sale are paid to the certificate holder pursuant to 9450
this section, except that such interest shall not accrue for 9451
more than ~~three~~ six years if the certificate was sold under 9452
~~section 5721.32 of the Revised Code, or under section 5721.42 of~~ 9453
~~the Revised Code by the holder of a certificate issued under~~ 9454
~~section 5721.32 of the Revised Code, or more than six years if~~ 9455
~~the certificate was sold under section 5721.33 of the Revised~~ 9456
~~Code, or under section 5721.42 of the Revised Code by the holder~~ 9457
~~of a certificate issued under section 5721.33 of the Revised~~ 9458
Code, after the day the amounts were paid by the certificate 9459
holder under divisions (B) (2) and (3) of section 5721.37 of the 9460
Revised Code; 9461

(e) The amounts paid by the certificate holder under 9462
divisions (B) (1), (2), and (3) of section 5721.37 of the Revised 9463
Code. 9464

(3) Following the payment required by division (D) (2) of 9465
this section, any amount due for taxes, installments of 9466
assessments, charges, penalties, and interest not covered by the 9467

tax certificate holder's payment under division (B) (2) of 9468
section 5721.37 of the Revised Code shall be paid, including all 9469
taxes, installments of assessments, charges, penalties, and 9470
interest payable subsequent to the entry of the finding and 9471
prior to the transfer of the deed of the parcel to the purchaser 9472
following confirmation of sale. If the proceeds available for 9473
distribution pursuant to this division are insufficient to pay 9474
the entire amount of those taxes, installments of assessments, 9475
charges, penalties, and interest, the proceeds shall be paid to 9476
each claimant in proportion to the amount of those taxes, 9477
installments of assessments, charges, penalties, and interest 9478
that each is due, and those taxes, installments of assessments, 9479
charges, penalties, and interest are deemed satisfied and shall 9480
be removed from the tax list and duplicate. 9481

(4) Any residue of money from proceeds of the sale shall 9482
be disposed of as prescribed by section 5721.20 of the Revised 9483
Code. 9484

(E) Unless the parcel previously was redeemed pursuant to 9485
section 5721.25 or 5721.38 of the Revised Code, upon the filing 9486
of the entry of confirmation of sale, or an order to transfer 9487
the parcel under sections 323.65 to 323.79 of the Revised Code, 9488
the title to the parcel is incontestable in the purchaser and is 9489
free and clear of all liens and encumbrances, except a federal 9490
tax lien, notice of which lien is properly filed in accordance 9491
with section 317.09 of the Revised Code prior to the date that a 9492
foreclosure proceeding is instituted pursuant to section 5721.37 9493
of the Revised Code, and which lien was foreclosed in accordance 9494
with 28 U.S.C.A. 2410(c), and except for the easements and 9495
covenants of record running with the land or lots that were 9496
created prior to the time the taxes or installments of 9497
assessments, for the nonpayment of which a tax certificate was 9498

issued and the parcel sold at foreclosure, became due and 9499
payable. 9500

The title shall not be invalid because of any 9501
irregularity, informality, or omission of any proceedings under 9502
this chapter or in any processes of taxation, if such 9503
irregularity, informality, or omission does not abrogate the 9504
provision for notice to holders of title, lien, or mortgage to, 9505
or other interests in, such foreclosed parcels, as prescribed in 9506
this chapter. 9507

Sec. 5725.98. (A) To provide a uniform procedure for 9508
calculating the amount of tax imposed by section 5725.18 of the 9509
Revised Code that is due under this chapter, a taxpayer shall 9510
claim any credits and offsets against tax liability to which it 9511
is entitled in the following order: 9512

(1) The credit for an insurance company or insurance 9513
company group under section 5729.031 of the Revised Code; 9514

(2) The credit for eligible employee training costs under 9515
section 5725.31 of the Revised Code; 9516

(3) The credit for purchasers of qualified low-income 9517
community investments under section 5725.33 of the Revised Code; 9518

(4) The nonrefundable job retention credit under division 9519
(B) of section 122.171 of the Revised Code; 9520

(5) The nonrefundable credit for investments in rural 9521
business growth funds under section 122.152 of the Revised Code; 9522

(6) The offset of assessments by the Ohio life and health 9523
insurance guaranty association permitted by section 3956.20 of 9524
the Revised Code; 9525

(7) The refundable credit for rehabilitating a historic 9526

building under section 5725.34 of the Revised Code; 9527

(8) The refundable credit for Ohio job retention under 9528
former division (B) (2) or (3) of section 122.171 of the Revised 9529
Code as those divisions existed before September 29, 2015, the 9530
effective date of the amendment of this section by H.B. 64 of 9531
the 131st general assembly; 9532

(9) The refundable credit for Ohio job creation under 9533
section 5725.32 of the Revised Code; 9534

(10) The refundable credit under section 5725.19 of the 9535
Revised Code for losses on loans made under the Ohio venture 9536
capital program under sections 150.01 to 150.10 of the Revised 9537
Code. 9538

(B) For any credit except the refundable credits 9539
enumerated in this section, the amount of the credit for a 9540
taxable year shall not exceed the tax due after allowing for any 9541
other credit that precedes it in the order required under this 9542
section. Any excess amount of a particular credit may be carried 9543
forward if authorized under the section creating that credit. 9544
Nothing in this chapter shall be construed to allow a taxpayer 9545
to claim, directly or indirectly, a credit more than once for a 9546
taxable year. 9547

Sec. 5726.04. (A) The tax levied on a financial 9548
institution under this chapter shall be the greater of the 9549
following: 9550

(1) A minimum tax equal to one thousand dollars; 9551

(2) The product of the total Ohio equity capital of the 9552
financial institution, as determined under this section, 9553
multiplied by eight mills for each dollar of the first two 9554
hundred million dollars of total Ohio equity capital, by four 9555

mills for each dollar of total Ohio equity capital greater than 9556
two hundred million and less than one billion three hundred 9557
million dollars, and by two and one-half mills for each dollar 9558
of total Ohio equity capital equal to or greater than one 9559
billion three hundred million dollars. 9560

(B) If the reporting person for a financial institution 9561
files an FR Y-9 or call report, the total equity capital of the 9562
financial institution shall equal the total equity capital shown 9563
on the reporting person's FR Y-9 or call report as of the end of 9564
the taxable year. The total equity capital of all other 9565
financial institutions shall be reported as of the end of the 9566
taxable year in accordance with generally accepted accounting 9567
principles. 9568

(C) For the purposes of this section, "total Ohio equity 9569
capital" means the product of the total equity capital of a 9570
financial institution as of the end of a taxable year multiplied 9571
by the Ohio apportionment ratio calculated for the financial 9572
institution under section 5726.05 of the Revised Code, except as 9573
provided in section 5726.041 of the Revised Code. 9574

(D) All payments received from the tax levied under this 9575
chapter shall be credited to the general revenue fund. 9576

~~(E) (1) As used in this division:— 9577~~

~~(a) "First target tax amount" means two hundred million— 9578
dollars.— 9579~~

~~(b) "Second target tax amount" means one hundred six per— 9580
cent of the first target tax amount or, if applicable, the first— 9581
target tax amount as adjusted under division (E) (2) or (3) of— 9582
this section.— 9583~~

~~(c) "Amount of taxes collected" means the amount of taxes— 9584~~

~~received by the tax commissioner from the tax levied under this chapter for a tax year, plus the total amount of the tax credit authorized by section 5726.57 of the Revised Code claimed on tax year 2014 reports, less any amounts refunded to taxpayers for the same tax year.~~

~~(2) If, for the tax year beginning on January 1, 2014, the total amount of taxes collected from all taxpayers under this chapter is greater than one hundred ten per cent of the first target tax amount, the tax commissioner shall decrease each tax rate provided in division (A) (2) of this section by a percentage equal to the percentage by which the amount of taxes collected exceeded the first target tax amount.~~

~~(3) If, for the tax year beginning on January 1, 2014, the total amount of taxes collected from all taxpayers under this chapter is less than ninety per cent of the first target tax amount, the tax commissioner shall increase the tax rate for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars as provided in division (A) (2) of this section by a percentage equal to a fraction, the denominator of which is the aggregate sum of each dollar of each taxpayer's Ohio equity capital greater than or equal to one billion three hundred million dollars, as reported by each taxpayer for tax year 2014, multiplied by the tax rate for each dollar of total Ohio equity capital greater than or equal to one billion three hundred million dollars provided under division (A) (2) of this section, and the numerator of which is the sum of the denominator and the difference obtained by subtracting the amount of taxes collected under this chapter in tax year 2014 from ninety per cent of the first target tax amount.~~

~~(4) If, for the tax year beginning on January 1, 2016, the total amount of taxes collected from all taxpayers under this chapter is greater than one hundred ten per cent of the second target tax amount, the tax commissioner shall decrease each tax rate in effect on January 1, 2016, by a percentage equal to the percentage by which the amount of taxes collected exceeded the second target tax amount.~~

~~(5) If, for the tax year beginning on January 1, 2016, the total amount of taxes collected from all taxpayers under this chapter is less than ninety per cent of the second target tax amount, the tax commissioner shall increase the tax rate for each dollar of total Ohio equity capital equal to or greater than one billion three hundred million dollars as provided in division (A) (2) of this section by a percentage equal to a fraction, the denominator of which is the aggregate sum of each dollar of each taxpayer's Ohio equity capital greater than or equal to one billion three hundred million dollars, as reported by each taxpayer for tax year 2016, multiplied by the tax rate for each dollar of total Ohio equity capital greater than or equal to one billion three hundred million dollars provided under division (A) (2) of this section, and the numerator of which is the sum of the denominator and the difference obtained by subtracting the amount of taxes collected under this chapter in tax year 2016 from ninety per cent of the second target tax amount.~~

~~(6) Tax rates adjusted pursuant to division (E) (2), (3), (4), or (5) of this section shall be rounded to the nearest one-tenth of one mill per dollar. The tax commissioner shall publish the new tax rates by journal entry and provide notice of the new tax rates to taxpayers. The new tax rates adjusted pursuant to division (E) (2) or (3) of this section shall apply to tax years~~

~~beginning on or after January 1, 2015. The new tax rates— 9646~~
~~adjusted pursuant to division (E) (4) or (5) of this section— 9647~~
~~shall apply to tax years beginning on or after January 1, 2017.— 9648~~

Sec. 5726.50. (A) A taxpayer may claim a refundable tax 9649
credit against the tax imposed under this chapter for each 9650
person included in the annual report of the taxpayer that is 9651
granted a credit by the tax credit authority under section 9652
122.17 or former division (B) (2) or (3) of section 122.171 of 9653
the Revised Code as those divisions existed before ~~the effective— 9654~~
~~date of the amendment of this section by H.B. 64 of the 131st— 9655~~
~~general assembly September 29, 2015.~~ Such a credit shall not be 9656
claimed for any tax year following the calendar year in which a 9657
relocation of employment positions occurs in violation of an 9658
agreement entered into under section 122.17 or 122.171 of the 9659
Revised Code. For the purpose of making tax payments under this 9660
chapter, taxes equal to the amount of the refundable credit 9661
shall be considered to be paid on the first day of the tax year. 9662

(B) A taxpayer may claim a nonrefundable tax credit 9663
against the tax imposed under this chapter for each person 9664
included in the annual report of the taxpayer that is granted a 9665
nonrefundable credit by the tax credit authority under division 9666
(B) of section 122.171 of the Revised Code. A taxpayer may claim 9667
against the tax imposed by this chapter any unused portion of 9668
the credits authorized under division (B) of section 5733.0610 9669
of the Revised Code. 9670

(C) The credits authorized in divisions (A) and (B) of 9671
this section shall be claimed in the order required under 9672
section 5726.98 of the Revised Code. If the amount of a credit 9673
authorized in division (A) of this section exceeds the tax 9674
otherwise due under section 5726.02 of the Revised Code after 9675

deducting all other credits preceding the credit in the order 9676
prescribed in section 5726.98 of the Revised Code, the excess 9677
shall be refunded to the taxpayer. 9678

Sec. 5727.02. As used in this chapter, "public utility," 9679
"electric company," "natural gas company," "pipe-line company," 9680
"water-works company," "water transportation company," or 9681
"heating company" does not include any of the following: 9682

(A) (1) Except as provided in division (A) (2) of this 9683
section, any person that is engaged in some other primary 9684
business to which the supplying of electricity, heat, natural 9685
gas, water, water transportation, steam, or air to others is 9686
incidental. 9687

(2) For tax year 2009 and each tax year thereafter, a 9688
person that is engaged in some other primary business to which 9689
the supplying of electricity to others is incidental shall be 9690
treated as an "electric company" and a "public utility" for 9691
purposes of this chapter solely to the extent required by 9692
section 5727.031 of the Revised Code. 9693

(3) For purposes of division (A) of this section and 9694
section 5727.031 of the Revised Code: 9695

(a) "Supplying of electricity" means generating, 9696
transmitting, or distributing electricity. 9697

(b) A person that leases to others energy facilities with 9698
an aggregate nameplate capacity in this state of two hundred 9699
fifty kilowatts or less per lease is not supplying electricity 9700
to others. 9701

(c) A person that owns, or leases from another person, 9702
energy facilities with an aggregate nameplate capacity in this 9703
state of two hundred fifty kilowatts or less is not supplying 9704

electricity to others, regardless of whether the owner or lessee 9705
engages in net metering as defined in section 4928.01 of the 9706
Revised Code. 9707

(d) A political subdivision of this state that owns an 9708
energy facility is not supplying electricity to others 9709
regardless of the nameplate capacity of the facility if the 9710
primary purpose of the facility is to supply electricity for the 9711
political subdivision's own use. As used in this division, 9712
"political subdivision" means a county, township, municipal 9713
corporation, or any other body corporate and politic that is 9714
responsible for government activities in a geographic area 9715
smaller than that of the state. 9716

(B) Any person that supplies electricity, natural gas, 9717
water, water transportation, steam, or air to its tenants, 9718
whether for a separate charge or otherwise; 9719

(C) Any person whose primary business in this state 9720
consists of producing, refining, or marketing petroleum or its 9721
products. 9722

(D) Any person whose primary business in this state 9723
consists of producing or gathering natural gas rather than 9724
supplying or distributing natural gas to consumers. 9725

Sec. 5727.11. (A) Except as otherwise provided in this 9726
section, the true value of all taxable property, except property 9727
of a railroad company, required by section 5727.06 of the 9728
Revised Code to be assessed by the tax commissioner shall be 9729
determined by a method of valuation using cost as capitalized on 9730
the public utility's books and records less composite annual 9731
allowances as prescribed by the commissioner. If the 9732
commissioner finds that application of this method will not 9733

result in the determination of true value of the public 9734
utility's taxable property, the commissioner may use another 9735
method of valuation. 9736

(B) (1) Except as provided in division (B) (2) of this 9737
section, the true value of current gas stored underground is the 9738
cost of that gas shown on the books and records of the public 9739
utility on the thirty-first day of December of the preceding 9740
year. 9741

(2) For tax year 2001 and thereafter, the true value of 9742
current gas stored underground is the quotient obtained by 9743
dividing (a) the average value of the current gas stored 9744
underground, which shall be determined by adding the value of 9745
the gas on hand at the end of each calendar month in the 9746
calendar year preceding the tax year, or, if applicable, the 9747
last day of business of each month for a partial month, divided 9748
by (b) the total number of months the natural gas company was in 9749
business during the calendar year prior to the beginning of the 9750
tax year. ~~with~~ With the approval of the tax commissioner, a 9751
natural gas company may use a date other than the end of a 9752
calendar month to value its current gas stored underground. 9753

(C) The true value of noncurrent gas stored underground is 9754
thirty-five per cent of the cost of that gas shown on the books 9755
and records of the public utility on the thirty-first day of 9756
December of the preceding year. 9757

(D) (1) Except as provided in division (D) (2) of this 9758
section, the true value of the production equipment of an 9759
electric company and the true value of all taxable property of a 9760
rural electric company is the equipment's or property's cost as 9761
capitalized on the company's books and records less fifty per 9762
cent of that cost as an allowance for depreciation and 9763

obsolescence. 9764

(2) The true value of the production equipment or energy 9765
conversion equipment of an electric company, rural electric 9766
company, or energy company purchased, transferred, or placed 9767
into service after October 5, 1999, is the purchase price of the 9768
equipment as capitalized on the company's books and records less 9769
composite annual allowances as prescribed by the tax 9770
commissioner. 9771

(E) The true value of taxable property, except property of 9772
a railroad company, required by section 5727.06 of the Revised 9773
Code to be assessed by the tax commissioner shall not include 9774
the allowance for funds used during construction or interest 9775
during construction that has been capitalized on the public 9776
utility's books and records as part of the total cost of the 9777
taxable property. This division shall not apply to the taxable 9778
property of an electric company or a rural electric company, 9779
excluding transmission and distribution property, first placed 9780
into service after December 31, 2000, or to the taxable property 9781
a person purchases, which includes transfers, if that property 9782
was used in business by the seller prior to the purchase. 9783

(F) The true value of watercraft owned or operated by a 9784
water transportation company shall be determined by multiplying 9785
the true value of the watercraft as determined under division 9786
(A) of this section by a fraction, the numerator of which is the 9787
number of revenue-earning miles traveled by the watercraft in 9788
the waters of this state and the denominator of which is the 9789
number of revenue-earning miles traveled by the watercraft in 9790
all waters. 9791

(G) The cost of property subject to a sale and leaseback 9792
transaction is the cost of the property as capitalized on the 9793

books and records of the public utility owning the property 9794
immediately prior to the sale and leaseback transaction. 9795

(H) The cost as capitalized on the books and records of a 9796
public utility includes amounts capitalized that represent 9797
regulatory assets, if such amounts previously were included on 9798
the company's books and records as capitalized costs of taxable 9799
personal property. 9800

(I) Any change in the composite annual allowances as 9801
prescribed by the commissioner on a prospective basis shall not 9802
be admissible in any judicial or administrative action or 9803
proceeding as evidence of value with regard to prior years' 9804
taxes. Information about the business, property, or transactions 9805
of any taxpayer obtained by the commissioner for the purpose of 9806
adopting or modifying the composite annual allowances shall not 9807
be subject to discovery or disclosure. 9808

Sec. 5727.23. On or before the first Monday in October, 9809
annually, the tax commissioner shall assess the taxable property 9810
of each public utility and interexchange telecommunications 9811
company, and for tax year 2009 and thereafter of each public 9812
utility property lessor. If the taxpayer failed to file its 9813
annual report required by section 5727.08 of the Revised Code at 9814
least sixty days prior to the first Monday of October, the 9815
commissioner may make the assessment under this section within 9816
sixty days after the taxpayer files the report, but this does 9817
not preclude the commissioner from making an assessment without 9818
receiving the report. 9819

The action of the tax commissioner shall be evidenced by a 9820
preliminary assessment that reflects the taxable value 9821
apportioned to each county and each taxing district in the 9822
county. The commissioner may amend the preliminary assessment as 9823

provided in this section. Each preliminary assessment and 9824
amended preliminary assessment shall be certified to the public 9825
utility, interexchange telecommunications company, or public 9826
utility property lessor, and to the auditor of each county to 9827
which taxable value has been apportioned. 9828

The county auditor shall place the apportioned taxable 9829
value on the general tax list and duplicate of real and public 9830
utility property, and taxes shall be levied and collected 9831
thereon at the same rates and in the same manner as taxes are 9832
levied and collected on real property in the taxing district in 9833
question. 9834

Unless a petition for reassessment of an assessment has 9835
been properly filed pursuant to section 5727.47 of the Revised 9836
Code, each preliminary assessment and, if amended, each 9837
preliminary assessment as last amended shall become final ninety 9838
days after certification of the preliminary assessment or thirty 9839
days after certification of the amended preliminary assessment, 9840
whichever is later. If a petition for reassessment is properly 9841
filed, the assessment shall become final when the tax 9842
commissioner issues a final determination. 9843

Neither the certification of any preliminary or amended 9844
assessment nor the expiration of the period of time that makes 9845
any assessment final constitutes a final determination, 9846
assessment, reassessment, valuation, finding, computation, or 9847
order of the commissioner that is appealable under section 9848
5717.02 of the Revised Code. 9849

Sec. 5727.32. (A) For the purpose of the tax imposed by 9850
section 5727.30 of the Revised Code, the statement required by 9851
section 5727.31 of the Revised Code shall contain: 9852

(1) The name of the company;	9853
(2) The nature of the company, whether a person, association, or corporation, and under the laws of what state or country organized;	9854 9855 9856
(3) The location of its principal office;	9857
(4) The name and post-office address of the president, secretary, auditor, treasurer, and superintendent or general manager;	9858 9859 9860
(5) The name and post-office address of the chief officer or managing agent of the company in this state;	9861 9862
(6) The amount of the excise taxes paid or to be paid with the reports made during the current calendar year as provided by section 5727.31 of the Revised Code;	9863 9864 9865
(7) In the case of telegraph companies:	9866
(a) The gross receipts from all sources, whether messages, telephone tolls, rentals, or otherwise, for business done within this state, including all sums earned or charged, whether actually received or not, for the year ending on the thirtieth day of June, and the company's proportion of gross receipts for business done by it within this state in connection with other companies, firms, corporations, persons, or associations, but excluding all of the following:	9867 9868 9869 9870 9871 9872 9873 9874
(i) All of the receipts derived wholly from interstate business or business done for or with the federal government;	9875 9876
(ii) The receipts of amounts billed on behalf of other entities+.	9877 9878
(b) The total gross receipts for such period from business	9879

done within this state.	9880
(8) In the case of all public utilities subject to the tax	9881
imposed by section 5727.30 of the Revised Code, except telegraph	9882
companies:	9883
(a) The gross receipts of the company, actually received,	9884
from all sources for business done within this state for the	9885
year next preceding the first day of May, including the	9886
company's proportion of gross receipts for business done by it	9887
within this state in connection with other companies, firms,	9888
corporations, persons, or associations, but excluding both of	9889
the following:	9890
(i) Receipts from interstate business or business done for	9891
the federal government;	9892
(ii) Receipts from sales to another public utility for	9893
resale, provided such other public utility is subject to the tax	9894
levied by section 5727.24 or 5727.30 of the Revised Code;	9895
(iii) Receipts of a combined company derived from	9896
operating as a natural gas company that is subject to the tax	9897
imposed by section 5727.24 of the Revised Code.	9898
(b) The total gross receipts of the company, for the year	9899
next preceding the first day of May, in this state from business	9900
done within the state.	9901
(B) The reports required by section 5727.31 of the Revised	9902
Code shall contain:	9903
(1) The name and principal mailing address of the company;	9904
(2) The total amount of the gross receipts excise taxes	9905
charged or levied as based upon its last preceding annual	9906
statement filed prior to the first day of January of the year in	9907

which such report is filed; 9908

(3) The amount of the excise taxes due with the report as 9909
provided by section 5727.31 of the Revised Code. 9910

Sec. 5727.33. (A) For the purpose of computing the excise 9911
tax imposed by section 5727.24 or 5727.30 of the Revised Code, 9912
the entire gross receipts actually received from all sources for 9913
business done within this state are taxable gross receipts, 9914
excluding the receipts described in divisions (B), (C), and (D) 9915
of this section. The gross receipts for the tax year of each 9916
telegraph company shall be computed for the period of the first 9917
day of July prior to the tax year to the thirtieth day of June 9918
of the tax year. The gross receipts of each natural gas company, 9919
including a combined company's taxable gross receipts attributed 9920
to a natural gas company activity, shall be computed in the 9921
manner required by section 5727.25 of the Revised Code. The 9922
gross receipts for the tax year of any other public utility 9923
subject to section 5727.30 of the Revised Code shall be computed 9924
for the period of the first day of May prior to the tax year to 9925
the thirtieth day of April of the tax year. 9926

(B) In ascertaining and determining the gross receipts of 9927
each public utility subject to this section, the following gross 9928
receipts are excluded: 9929

(1) All receipts derived wholly from interstate business; 9930

(2) All receipts derived wholly from business done for or 9931
with the federal government; 9932

(3) All receipts from the sale of merchandise; 9933

(4) All receipts from sales to other public utilities, 9934
except railroad and telegraph companies, for resale, provided 9935
the other public utility is subject to the tax levied by section 9936

5727.24 or 5727.30 of the Revised Code. 9937

(C) In ascertaining and determining the gross receipts of 9938
a natural gas company, receipts billed on behalf of other 9939
entities are excluded. The tax imposed by section ~~5729.811~~ 9940
5727.811 of the Revised Code, along with transportation and 9941
billing and collection fees charged to other entities, shall be 9942
included in the gross receipts of a natural gas company. 9943

(D) In ascertaining and determining the gross receipts of 9944
a combined company subject to the tax imposed by section 5727.30 9945
of the Revised Code, all receipts derived from operating as a 9946
natural gas company that are subject to the tax imposed by 9947
section 5727.24 of the Revised Code are excluded. 9948

(E) Except as provided in division (F) of this section, 9949
the amount ascertained by the commissioner under this section, 9950
less a deduction of twenty-five thousand dollars, shall be the 9951
taxable gross receipts of such companies for business done 9952
within this state for that year. 9953

(F) The amount ascertained under this section, less the 9954
following deduction, shall be the taxable gross receipts of a 9955
natural gas company or combined company subject to the tax 9956
imposed by section 5727.24 of the Revised Code for business done 9957
within this state: 9958

(1) For a natural gas company that files quarterly returns 9959
of the tax imposed by section 5727.24 of the Revised Code, six 9960
thousand two hundred fifty dollars for each quarterly return; 9961

(2) For a natural gas company that files an annual return 9962
of the tax imposed by section 5727.24 of the Revised Code, 9963
twenty-five thousand dollars for each annual return; 9964

(3) For a combined company, twenty-five thousand dollars 9965

on the annual statement filed under section 5727.31 of the Revised Code. A combined company shall not be entitled to a deduction in computing gross receipts subject to the tax imposed by section 5727.24 of the Revised Code.

Sec. 5727.80. As used in sections 5727.80 to 5727.95 of the Revised Code:

(A) "Electric distribution company" means either of the following:

(1) A person who distributes electricity through a meter of an end user in this state or to an unmetered location in this state;

(2) The end user of electricity in this state, if the end user obtains electricity that is not distributed or transmitted to the end user by an electric distribution company that is required to remit the tax imposed by section 5727.81 of the Revised Code.

"Electric distribution company" does not include an end user of electricity in this state who self-generates electricity that is used directly by that end user on the same site that the electricity is generated or a person that donates all of the electricity the person generates to a political subdivision of the state. Division (A) (2) of this section shall not apply to a political subdivision in this state that is the end user of electricity that is donated to the political subdivision.

(B) "Kilowatt hour" means one thousand watt hours of electricity.

(C) For an electric distribution company, "meter of an end user in this state" means the last meter used to measure the kilowatt hours distributed by an electric distribution company

to a location in this state, or the last meter located outside 9995
of this state that is used to measure the kilowatt hours 9996
consumed at a location in this state. 9997

(D) "Person" has the same meaning as in section 5701.01 of 9998
the Revised Code, but also includes a political subdivision of 9999
the state. 10000

(E) "Municipal electric utility" means a municipal 10001
corporation that owns or operates a system for the distribution 10002
of electricity. 10003

(F) "Qualified end user" means an end user of electricity 10004
that satisfies either of the following criteria: 10005

(1) The end user uses more than three million kilowatt 10006
hours of electricity at one manufacturing location in this state 10007
for a calendar day for use in a qualifying manufacturing 10008
process. 10009

(2) The end user uses electricity at a manufacturing 10010
location in this state for use in a chlor-alkali manufacturing 10011
process but, if the end user uses electricity distributed by a 10012
municipal electric utility, the end user can only be a 10013
"qualified end user" upon obtaining the consent of the 10014
legislative authority of the municipal corporation that owns or 10015
operates the utility. 10016

(G) "Qualified regeneration" means a process to convert 10017
electricity to a form of stored energy by means such as using 10018
electricity to compress air for storage or to pump water to an 10019
elevated storage reservoir, if such stored energy is 10020
subsequently used to generate electricity for sale to others 10021
primarily during periods when there is peak demand for 10022
electricity. 10023

(H) "Qualified regeneration meter" means the last meter used to measure electricity used in a qualified regeneration process. 10024
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(I) "Qualifying manufacturing process" means an electrochemical manufacturing process or a chlor-alkali manufacturing process. 10027
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(J) "Self-assessing purchaser" means a purchaser that meets all the requirements of, and pays the excise tax in accordance with, division (C) of section 5727.81 of the Revised Code. 10030
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(K) "Natural gas distribution company" means a natural gas company or a combined company, ~~as defined in section 5727.01 of the Revised Code,~~ that is subject to the excise tax imposed by section 5727.24 of the Revised Code and that distributes natural gas through a meter of an end user in this state or to an unmetered location in this state. 10034
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(L) "MCF" means one thousand cubic feet. 10040

(M) For a natural gas distribution company, "meter of an end user in this state" means the last meter used to measure the MCF of natural gas distributed by a natural gas distribution company to a location in this state, or the last meter located outside of this state that is used to measure the natural gas consumed at a location in this state. 10041
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(N) "Flex customer" means an industrial or a commercial facility that has consumed more than one billion cubic feet of natural gas a year at a single location during any of the previous five years, or an industrial or a commercial end user of natural gas that purchases natural gas distribution services from a natural gas distribution company at discounted rates or 10047
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charges established in any of the following:	10053
(1) A special arrangement subject to review and regulation	10054
by the public utilities commission under section 4905.31 of the	10055
Revised Code;	10056
(2) A special arrangement with a natural gas distribution	10057
company pursuant to a municipal ordinance;	10058
(3) A variable rate schedule that permits rates to vary	10059
between defined amounts, provided that the schedule is on file	10060
with the public utilities commission.	10061
An end user that meets this definition on January 1, 2000,	10062
or thereafter is a "flex customer" for purposes of determining	10063
the rate of taxation under division (D) of section 5727.811 of	10064
the Revised Code.	10065
(O) "Electrochemical manufacturing process" means the	10066
performance of an electrochemical reaction in which electrons	10067
from direct current electricity remain a part of the product	10068
being manufactured. "Electrochemical manufacturing process" does	10069
not include a chlor-alkali manufacturing process.	10070
(P) "Chlor-alkali manufacturing process" means a process	10071
that uses electricity to produce chlorine and other chemicals	10072
through the electrolysis of a salt solution.	10073
Sec. 5727.83. (A) A natural gas distribution company, an	10074
electric distribution company, or a self-assessing purchaser	10075
shall remit each tax payment by electronic funds transfer as	10076
prescribed by divisions (B) and (C) of this section.	10077
The tax commissioner shall notify each natural gas	10078
distribution company, electric distribution company, and self-	10079
assessing purchaser of the obligation to remit taxes by	10080

electronic funds transfer, shall maintain an updated list of 10081
those companies and purchasers, and shall timely certify to the 10082
treasurer of state the list and any additions thereto or 10083
deletions therefrom. Failure by the tax commissioner to notify a 10084
company or self-assessing purchaser subject to this section to 10085
remit taxes by electronic funds transfer does not relieve the 10086
company or self-assessing purchaser of its obligation to remit 10087
taxes in that manner. 10088

(B) A natural gas distribution company, an electric 10089
distribution company, or a self-assessing purchaser required by 10090
this section to remit payments by electronic funds transfer 10091
shall remit such payments to the treasurer of state in the 10092
manner prescribed by rules adopted by the treasurer of state 10093
under section 113.061 of the Revised Code, and on or before the 10094
dates specified under section 5727.82 of the Revised Code. The 10095
payment of taxes by electronic funds transfer does not affect a 10096
company's or self-assessing purchaser's obligation to file a 10097
return as required under section 5727.82 of the Revised Code. 10098

(C) A natural gas distribution company, an electric 10099
distribution company, or a self-assessing purchaser required by 10100
this section to remit taxes by electronic funds transfer may 10101
apply to the treasurer of state in the manner prescribed by the 10102
treasurer of state to be excused from that requirement. The 10103
treasurer of state may excuse the company or self-assessing 10104
purchaser from remittance by electronic funds transfer for good 10105
cause shown for the period of time requested by the company or 10106
self-assessing purchaser or for a portion of that period. The 10107
treasurer of state shall notify the tax commissioner and the 10108
company or self-assessing purchaser of the treasurer of state's 10109
decision as soon as is practicable. 10110

(D) If a natural gas distribution company, an electric 10111
distribution company, or a self-assessing purchaser required by 10112
this section to remit taxes by electronic funds transfer remits 10113
those taxes by some means other than by electronic funds 10114
transfer as prescribed by this section and the rules adopted by 10115
the treasurer of state, and the treasurer of state determines 10116
that such failure was not due to reasonable cause or was due to 10117
willful neglect, the treasurer of state shall notify the tax 10118
commissioner of the failure to remit by electronic funds 10119
transfer and shall provide the commissioner with any information 10120
used in making that determination. The tax commissioner may 10121
collect an additional charge by assessment in the manner 10122
prescribed by section 5727.89 of the Revised Code. The 10123
additional charge shall equal five per cent of the amount of the 10124
taxes required to be paid by electronic funds transfer, but 10125
shall not exceed five thousand dollars. Any additional charge 10126
assessed under this section is in addition to any other penalty 10127
or charge imposed under this chapter, and shall be considered as 10128
revenue arising from the tax imposed under this chapter. The tax 10129
commissioner may abate all or a portion of such a charge and may 10130
adopt rules governing such abatements. 10131

No additional charge shall be assessed under this division 10132
against a natural gas distribution company, an electric 10133
distribution company, or a self-assessing purchaser that has 10134
been notified of its obligation to remit taxes under this 10135
section and that remits its first two tax payments after such 10136
notification by some means other than electronic funds transfer. 10137
The additional charge may be assessed upon the remittance of any 10138
subsequent tax payment that the company or purchaser remits by 10139
~~some~~ some means other than electronic funds transfer. 10140

Sec. 5727.84. No determinations, computations, 10141

certifications, or payments shall be made under this section 10142
after June 30, 2015. 10143

(A) As used in this section and sections 5727.85, and 10144
~~5727.86, and 5727.87~~ of the Revised Code: 10145

(1) "School district" means a city, local, or exempted 10146
village school district. 10147

(2) "Joint vocational school district" means a joint 10148
vocational school district created under section 3311.16 of the 10149
Revised Code, and includes a cooperative education school 10150
district created under section 3311.52 or 3311.521 of the 10151
Revised Code and a county school financing district created 10152
under section 3311.50 of the Revised Code. 10153

(3) "Local taxing unit" means a subdivision or taxing 10154
unit, as defined in section 5705.01 of the Revised Code, a park 10155
district created under Chapter 1545. of the Revised Code, or a 10156
township park district established under section 511.23 of the 10157
Revised Code, but excludes school districts and joint vocational 10158
school districts. 10159

(4) "State education aid," for a school district, means 10160
the following: 10161

(a) For fiscal years prior to fiscal year 2010, the sum of 10162
state aid amounts computed for the district under former 10163
sections 3317.029, 3317.052, and 3317.053 of the Revised Code 10164
and the following provisions, as they existed for the applicable 10165
fiscal year: divisions (A), (C) (1), (C) (4), (D), (E), and (F) of 10166
section 3317.022; divisions (B), (C), and (D) of section 10167
3317.023; divisions (G), (L), and (N) of section 3317.024; and 10168
sections 3317.0216, 3317.0217, 3317.04, and 3317.05 of the 10169
Revised Code; and the adjustments required by: division (C) of 10170

section 3310.08; division (C)(2) of section 3310.41; division 10171
(C) of section 3314.08; division (D)(2) of section 3314.091; 10172
division (D) of former section 3314.13; divisions (E), (K), (L), 10173
(M), and (N) of section 3317.023; division (C) of section 10174
3317.20; and sections 3313.979 and 3313.981 of the Revised Code. 10175
However, when calculating state education aid for a school 10176
district for fiscal years 2008 and 2009, include the amount 10177
computed for the district under Section 269.20.80 of H.B. 119 of 10178
the 127th general assembly, as subsequently amended, instead of 10179
division (D) of section 3317.022 of the Revised Code; and 10180
include amounts calculated under Section 269.30.80 of H.B. 119 10181
of the 127th general assembly, as subsequently amended. 10182

(b) For fiscal years 2010 and 2011, the sum of the amounts 10183
computed for the district under former sections 3306.052, 10184
3306.12, 3306.13, 3306.19, 3306.191, 3306.192, 3317.052, and 10185
3317.053 of the Revised Code and the following provisions, as 10186
they existed for the applicable fiscal year: division (G) of 10187
section 3317.024; section 3317.05 of the Revised Code; and the 10188
adjustments required by division (C) of section 3310.08; 10189
division (C)(2) of section 3310.41; division (C) of section 10190
3314.08; division (D)(2) of section 3314.091; division (D) of 10191
former section 3314.13; divisions (E), (K), (L), (M), and (N) of 10192
section 3317.023; division (C) of section 3317.20; and sections 10193
3313.979, 3313.981, and 3326.33 of the Revised Code. 10194

(c) For fiscal years 2012 and 2013, the amount paid in 10195
accordance with the section of H.B. 153 of the 129th general 10196
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 10197
SCHOOL DISTRICTS" and the adjustments required by division (C) 10198
of section 3310.08; division (C)(2) of section 3310.41; section 10199
3310.55; division (C) of section 3314.08; division (D)(2) of 10200
section 3314.091; division (D) of former section 3314.13; 10201

divisions (B), (H), (I), (J), and (K) of section 3317.023; 10202
division (C) of section 3317.20; and sections 3313.979 and 10203
3313.981 of the Revised Code; 10204

(d) For fiscal year 2014 and each fiscal year thereafter, 10205
the sum of amounts computed for and paid to the district under 10206
section 3317.022 of the Revised Code; and the adjustments 10207
required by division (C) of section 3310.08, division (C)(2) of 10208
section 3310.41, section 3310.55, division (C) of section 10209
3314.08, division (D)(2) of section 3314.091, divisions (B), 10210
(H), (J), and (K) of section 3317.023, and sections 3313.978, 10211
3313.981, 3317.0212, 3317.0213, 3317.0214, and 3326.33 of the 10212
Revised Code. However, for fiscal years 2014 and 2015, the 10213
amount computed for the district under the section of this act 10214
entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE 10215
SCHOOL DISTRICTS" also shall be included. 10216

(5) "State education aid," for a joint vocational school 10217
district, means the following: 10218

(a) For fiscal years prior to fiscal year 2010, the sum of 10219
the state aid amounts computed for the district under division 10220
(N) of section 3317.024 and section 3317.16 of the Revised Code. 10221
However, when calculating state education aid for a joint 10222
vocational school district for fiscal years 2008 and 2009, 10223
include the amount computed for the district under Section 10224
269.30.90 of H.B. 119 of the 127th general assembly, as 10225
subsequently amended. 10226

(b) For fiscal years 2010 and 2011, the amount computed 10227
for the district in accordance with the section of H.B. 1 of the 10228
128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL 10229
SCHOOL DISTRICTS." 10230

- (c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 10231
10232
10233
10234
- (d) For fiscal year 2014 and each fiscal year thereafter, the amount computed for the district under section 3317.16 of the Revised Code; except that, for fiscal years 2014 and 2015, the amount computed for the district under the section of this act entitled "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS" shall be included. 10235
10236
10237
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10240
- (6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A) (1) of section 5727.85 of the Revised Code. 10241
10242
10243
10244
- (7) "Recognized valuation" means the amount computed for a school district pursuant to section 3317.015 of the Revised Code. 10245
10246
10247
- (8) "Electric company tax value loss" means the amount determined under division (D) of this section. 10248
10249
- (9) "Natural gas company tax value loss" means the amount determined under division (E) of this section. 10250
10251
- (10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 10252
10253
10254
- (11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 10255
10256
- (12) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 10257
10258

(13) "Fixed-sum levy" means a tax levied on property at 10259
whatever rate is required to produce a specified amount of tax 10260
money or levied in excess of the ten-mill limitation to pay debt 10261
charges, and includes school district emergency levies charged 10262
and payable pursuant to section 5705.194 of the Revised Code. 10263

(14) "Fixed-sum levy loss" means the amount determined 10264
under division (H) of this section. 10265

(15) "Consumer price index" means the consumer price index 10266
(all items, all urban consumers) prepared by the bureau of labor 10267
statistics of the United States department of labor. 10268

(16) "Total resources" and "total library resources" have 10269
the same meanings as in section 5751.20 of the Revised Code. 10270

(17) "2011 current expense S.B. 3 allocation" means the 10271
sum of payments received by a school district or joint 10272
vocational school district in fiscal year 2011 for current 10273
expense levy losses pursuant to division (C)(2) of section 10274
5727.85 of the Revised Code. If a fixed-rate levy eligible for 10275
reimbursement is not charged and payable in any year after tax 10276
year 2010, "2011 current expense S.B. 3 allocation" used to 10277
compute payments to be made under division (C)(3) of section 10278
5727.85 of the Revised Code in the tax years following the last 10279
year the levy is charged and payable shall be reduced to the 10280
extent that those payments are attributable to the fixed-rate 10281
levy loss of that levy. 10282

(18) "2010 current expense S.B. 3 allocation" means the 10283
sum of payments received by a municipal corporation in calendar 10284
year 2010 for current expense levy losses pursuant to division 10285
(A)(1) of section 5727.86 of the Revised Code, excluding any 10286
such payments received for current expense levy losses 10287

attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2010 current expense S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not charged and payable in any year after tax year 2010, "2010 S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) or (e) of section 5727.86 of the Revised Code in the tax years following the last year the levy is charged and payable shall be reduced to the extent that those payments are attributable to the fixed-rate levy loss of that levy.

(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code, excluding any such payments received for fixed-rate levy losses attributable to a tax levied under section 5705.23 of the Revised Code. If a fixed-rate levy eligible for

reimbursement is not charged and payable in any year after tax 10319
year 2010, "total S.B. 3 allocation" used to compute payments to 10320
be made under division (C) (3) of section 5727.85 or division (A) 10321
(1) (d) or (e) of section 5727.86 of the Revised Code in the tax 10322
years following the last year the levy is charged and payable 10323
shall be reduced to the extent that those payments are 10324
attributable to the fixed-rate levy loss of that levy as would 10325
be computed under division (C) (2) of section 5727.85 or division 10326
(A) (1) (b) of section 5727.86 of the Revised Code. 10327

(21) "2011 non-current expense S.B. 3 allocation" means 10328
the difference of a school district's or joint vocational school 10329
district's total S.B. 3 allocation minus the sum of the school 10330
district's 2011 current expense S.B. 3 allocation and the 10331
portion of the school district's total S.B. 3 allocation 10332
constituting reimbursement for debt levies pursuant to division 10333
(D) of section 5727.85 of the Revised Code. 10334

(22) "2010 non-current expense S.B. 3 allocation" means 10335
the difference of a municipal corporation's total S.B. 3 10336
allocation minus the sum of its 2010 current expense S.B. 3 10337
allocation and the portion of its total S.B. 3 allocation 10338
constituting reimbursement for debt levies pursuant to division 10339
(A) (4) of section 5727.86 of the Revised Code. 10340

(23) "S.B. 3 allocation for library purposes" means, in 10341
the case of a county, municipal corporation, school district, or 10342
township public library that receives the proceeds of a tax 10343
levied under section 5705.23 of the Revised Code, the sum of the 10344
payments received by the public library in calendar year 2010 10345
pursuant to section 5727.86 of the Revised Code for fixed-rate 10346
levy losses attributable to a tax levied under section 5705.23 10347
of the Revised Code. If a fixed-rate levy authorized under 10348

section 5705.23 of the Revised Code that is eligible for 10349
 reimbursement is not charged and payable in any year after tax 10350
 year 2010, "S.B. 3 allocation for library purposes" used to 10351
 compute payments to be made under division (A)(1)(f) of section 10352
 5727.86 of the Revised Code in the tax years following the last 10353
 year the levy is charged and payable shall be reduced to the 10354
 extent that those payments are attributable to the fixed-rate 10355
 levy loss of that levy as would be computed under division (A) 10356
 (1)(b) of section 5727.86 of the Revised Code. 10357

(24) "Threshold per cent" means, in the case of a school 10358
 district or joint vocational school district, two per cent for 10359
 fiscal year 2012 and four per cent for fiscal years 2013 and 10360
 thereafter. In the case of a local taxing unit or public library 10361
 that receives the proceeds of a tax levied under section 5705.23 10362
 of the Revised Code, "threshold per cent" means two per cent for 10363
 calendar year 2011, four per cent for calendar year 2012, and 10364
 six per cent for calendar years 2013 and thereafter. 10365

(B) The kilowatt-hour tax receipts fund is hereby created 10366
 in the state treasury and shall consist of money arising from 10367
 the tax imposed by section 5727.81 of the Revised Code. All 10368
 money in the kilowatt-hour tax receipts fund shall be credited 10369
 as follows: 10370

Fiscal Year	General Revenue	School District	Local	
	Fund	Property Tax	Government	
		Replacement	Property Tax	
		Fund	Replacement	
			Fund	
2001-2011	63.0%	25.4%	11.6%	10371
2012-2015	88.0%	9.0%	3.0%	10372
				10373
				10374
				10375
				10376
				10377

(C) The natural gas tax receipts fund is hereby created in 10378
the state treasury and shall consist of money arising from the 10379
tax imposed by section 5727.811 of the Revised Code. All money 10380
in the fund shall be credited as follows for fiscal years before 10381
fiscal year 2012: 10382

(1) Sixty-eight and seven-tenths per cent shall be 10383
credited to the school district property tax replacement fund 10384
for the purpose of making the payments described in section 10385
5727.85 of the Revised Code. 10386

(2) Thirty-one and three-tenths per cent shall be credited 10387
to the local government property tax replacement fund for the 10388
purpose of making the payments described in section 5727.86 of 10389
the Revised Code. 10390

(D) Not later than January 1, 2002, the tax commissioner 10391
shall determine for each taxing district its electric company 10392
tax value loss, which is the sum of the applicable amounts 10393
described in divisions (D) (1) to (4) of this section: 10394

(1) The difference obtained by subtracting the amount 10395
described in division (D) (1) (b) from the amount described in 10396
division (D) (1) (a) of this section. 10397

(a) The value of electric company and rural electric 10398
company tangible personal property as assessed by the tax 10399
commissioner for tax year 1998 on a preliminary assessment, or 10400
an amended preliminary assessment if issued prior to March 1, 10401
1999, and as apportioned to the taxing district for tax year 10402
1998; 10403

(b) The value of electric company and rural electric 10404
company tangible personal property as assessed by the tax 10405
commissioner for tax year 1998 had the property been apportioned 10406

to the taxing district for tax year 2001, and assessed at the 10407
rates in effect for tax year 2001. 10408

(2) The difference obtained by subtracting the amount 10409
described in division (D) (2) (b) from the amount described in 10410
division (D) (2) (a) of this section. 10411

(a) The three-year average for tax years 1996, 1997, and 10412
1998 of the assessed value from nuclear fuel materials and 10413
assemblies assessed against a person under Chapter 5711. of the 10414
Revised Code from the leasing of them to an electric company for 10415
those respective tax years, as reflected in the preliminary 10416
assessments; 10417

(b) The three-year average assessed value from nuclear 10418
fuel materials and assemblies assessed under division (D) (2) (a) 10419
of this section for tax years 1996, 1997, and 1998, as reflected 10420
in the preliminary assessments, using an assessment rate of 10421
twenty-five per cent. 10422

(3) In the case of a taxing district having a nuclear 10423
power plant within its territory, any amount, resulting in an 10424
electric company tax value loss, obtained by subtracting the 10425
amount described in division (D) (1) of this section from the 10426
difference obtained by subtracting the amount described in 10427
division (D) (3) (b) of this section from the amount described in 10428
division (D) (3) (a) of this section. 10429

(a) The value of electric company tangible personal 10430
property as assessed by the tax commissioner for tax year 2000 10431
on a preliminary assessment, or an amended preliminary 10432
assessment if issued prior to March 1, 2001, and as apportioned 10433
to the taxing district for tax year 2000; 10434

(b) The value of electric company tangible personal 10435

property as assessed by the tax commissioner for tax year 2001 10436
on a preliminary assessment, or an amended preliminary 10437
assessment if issued prior to March 1, 2002, and as apportioned 10438
to the taxing district for tax year 2001. 10439

(4) In the case of a taxing district having a nuclear 10440
power plant within its territory, the difference obtained by 10441
subtracting the amount described in division (D) (4) (b) of this 10442
section from the amount described in division (D) (4) (a) of this 10443
section, provided that such difference is greater than ten per 10444
cent of the amount described in division (D) (4) (a) of this 10445
section. 10446

(a) The value of electric company tangible personal 10447
property as assessed by the tax commissioner for tax year 2005 10448
on a preliminary assessment, or an amended preliminary 10449
assessment if issued prior to March 1, 2006, and as apportioned 10450
to the taxing district for tax year 2005; 10451

(b) The value of electric company tangible personal 10452
property as assessed by the tax commissioner for tax year 2006 10453
on a preliminary assessment, or an amended preliminary 10454
assessment if issued prior to March 1, 2007, and as apportioned 10455
to the taxing district for tax year 2006. 10456

(E) Not later than January 1, 2002, the tax commissioner 10457
shall determine for each taxing district its natural gas company 10458
tax value loss, which is the sum of the amounts described in 10459
divisions (E) (1) and (2) of this section: 10460

(1) The difference obtained by subtracting the amount 10461
described in division (E) (1) (b) from the amount described in 10462
division (E) (1) (a) of this section. 10463

(a) The value of all natural gas company tangible personal 10464

property, other than property described in division (E) (2) of 10465
this section, as assessed by the tax commissioner for tax year 10466
1999 on a preliminary assessment, or an amended preliminary 10467
assessment if issued prior to March 1, 2000, and apportioned to 10468
the taxing district for tax year 1999; 10469

(b) The value of all natural gas company tangible personal 10470
property, other than property described in division (E) (2) of 10471
this section, as assessed by the tax commissioner for tax year 10472
1999 had the property been apportioned to the taxing district 10473
for tax year 2001, and assessed at the rates in effect for tax 10474
year 2001. 10475

(2) The difference in the value of current gas obtained by 10476
subtracting the amount described in division (E) (2) (b) from the 10477
amount described in division (E) (2) (a) of this section. 10478

(a) The three-year average assessed value of current gas 10479
as assessed by the tax commissioner for tax years 1997, 1998, 10480
and 1999 on a preliminary assessment, or an amended preliminary 10481
assessment if issued prior to March 1, 2001, and as apportioned 10482
in the taxing district for those respective years; 10483

(b) The three-year average assessed value from current gas 10484
under division (E) (2) (a) of this section for tax years 1997, 10485
1998, and 1999, as reflected in the preliminary assessment, 10486
using an assessment rate of twenty-five per cent. 10487

(F) The tax commissioner may request that natural gas 10488
companies, electric companies, and rural electric companies file 10489
a report to help determine the tax value loss under divisions 10490
(D) and (E) of this section. The report shall be filed within 10491
thirty days of the commissioner's request. A company that fails 10492
to file the report or does not timely file the report is subject 10493

to the penalty in section 5727.60 of the Revised Code. 10494

(G) Not later than January 1, 2002, the tax commissioner 10495
shall determine for each school district, joint vocational 10496
school district, and local taxing unit its fixed-rate levy loss, 10497
which is the sum of its electric company tax value loss 10498
multiplied by the tax rate in effect in tax year 1998 for fixed- 10499
rate levies and its natural gas company tax value loss 10500
multiplied by the tax rate in effect in tax year 1999 for fixed- 10501
rate levies. 10502

(H) Not later than January 1, 2002, the tax commissioner 10503
shall determine for each school district, joint vocational 10504
school district, and local taxing unit its fixed-sum levy loss, 10505
which is the amount obtained by subtracting the amount described 10506
in division (H) (2) of this section from the amount described in 10507
division (H) (1) of this section: 10508

(1) The sum of the electric company tax value loss 10509
multiplied by the tax rate in effect in tax year 1998, and the 10510
natural gas company tax value loss multiplied by the tax rate in 10511
effect in tax year 1999, for fixed-sum levies for all taxing 10512
districts within each school district, joint vocational school 10513
district, and local taxing unit. For the years 2002 through 10514
2006, this computation shall include school district emergency 10515
levies that existed in 1998 in the case of the electric company 10516
tax value loss, and 1999 in the case of the natural gas company 10517
tax value loss, and all other fixed-sum levies that existed in 10518
1998 in the case of the electric company tax value loss and 1999 10519
in the case of the natural gas company tax value loss and 10520
continue to be charged in the tax year preceding the 10521
distribution year. For the years 2007 through 2016 in the case 10522
of school district emergency levies, and for all years after 10523

2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division (F) of section 5727.85 of the Revised Code or division (A) (2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H) (2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of

this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5729.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5729.07 of the Revised Code;

(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;	10583 10584
(4) The nonrefundable job retention credit under division (B) of section 122.171 of the Revised Code;	10585 10586
(5) The nonrefundable credit for investments in rural business growth funds under section 122.152 of the Revised Code;	10587 10588
(6) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;	10589 10590 10591
(7) The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code;	10592 10593
(8) The refundable credit for Ohio job retention under former division (B) (2) or (3) of section 122.171 of the Revised Code as those divisions existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly;	10594 10595 10596 10597 10598
(9) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;	10599 10600
(10) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.	10601 10602 10603 10604
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.	10605 10606 10607 10608 10609 10610

Nothing in this chapter shall be construed to allow a taxpayer 10611
to claim, directly or indirectly, a credit more than once for a 10612
taxable year. 10613

Sec. 5733.042. (A) As used in this section: 10614

(1) "Affiliated group" has the same meaning as in section 10615
1504 of the Internal Revenue Code. 10616

(2) "Asset value" means the adjusted basis of assets as 10617
determined in accordance with Subchapter O of the Internal 10618
Revenue Code and the Treasury Regulations thereunder. 10619

(3) "Intangible expenses and costs" include expenses, 10620
losses, and costs for, related to, or in connection directly or 10621
indirectly with the direct or indirect acquisition of, the 10622
direct or indirect use of, the direct or indirect maintenance or 10623
management of, the direct or indirect ownership of, the direct 10624
or indirect sale of, the direct or indirect exchange of, or any 10625
other direct or indirect disposition of intangible property to 10626
the extent such amounts are allowed as deductions or costs in 10627
determining taxable income before operating loss deduction and 10628
special deductions for the taxable year under the Internal 10629
Revenue Code. Such expenses and costs include, but are not 10630
limited to, losses related to or incurred in connection directly 10631
or indirectly with factoring transactions, losses related to or 10632
incurred in connection directly or indirectly with discounting 10633
transactions, royalty, patent, technical, and copyright fees, 10634
licensing fees, and other similar expenses and costs. 10635

(4) "Interest expenses and costs" include but are not 10636
limited to amounts directly or indirectly allowed as deductions 10637
under section 163 of the Internal Revenue Code for purposes of 10638
determining taxable income under the Internal Revenue Code. 10639

(5) "Member" has the same meaning as in U.S. Treasury Regulation section 1.1502-1. 10640
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(6) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a "related entity" as defined in division (I) (12) (c) of section 5733.04 of the Revised Code, is a component member as defined in section 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 per cent" wherever "5 per cent" appears in section 1563(e) of the Internal Revenue Code. 10642
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(B) This section applies to all corporations for tax years 1999 and thereafter. For tax years prior to 1999, this section applies only to a corporation that has, or is a member of an affiliated group that has, or is a member of an affiliated group with another member that has, one or more of the following: 10653
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(1) Gross sales, including sales to other members of the affiliated group, during the taxable year of at least fifty million dollars; 10658
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(2) Total assets whose asset value at any time during the taxable year is at least twenty-five million dollars; 10661
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(3) Taxable income before operating loss deduction and special deductions during the taxable year of at least five hundred thousand dollars. 10663
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10665

(C) For purposes of computing its net income under division (I) of section 5733.04 of the Revised Code, the corporation shall add interest expenses and costs and intangible 10666
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expenses and costs directly or indirectly paid, accrued, or 10669
incurred to, or in connection directly or indirectly with one or 10670
more direct or indirect transactions with, one or more of the 10671
following related members: 10672

(1) Any related member whose activities, in any one state, 10673
are primarily limited to the maintenance and management of 10674
intangible investments or of the intangible investments of 10675
corporations, business trusts, or other entities registered as 10676
investment companies under the "Investment Company Act of 1940," 10677
15 U.S.C. 80a-1 et seq., as amended, and the collection and 10678
distribution of the income from such investments or from 10679
tangible property physically located outside such state. For 10680
purposes of division (C)(1) of this section, "intangible 10681
investments" includes, without limitation, investments in 10682
stocks, bonds, notes, and other debt obligations, including debt 10683
obligations of related members, interests in partnerships, 10684
patents, patent applications, trademarks, trade names, and 10685
similar types of intangible assets. 10686

(2) Any related member that is a personal holding company 10687
as defined in section 542 of the Internal Revenue Code without 10688
regard to the stock ownership requirements set forth in section 10689
542(a)(2) of the Internal Revenue Code; 10690

(3) Any related member that is not a corporation and is 10691
directly, indirectly, constructively, or beneficially owned in 10692
whole or in part by a personal holding company as defined in 10693
section 542 of the Internal Revenue Code without regard to the 10694
stock ownership requirements set forth in section 542(a)(2) of 10695
the Internal Revenue Code; 10696

(4) Any related member that is a foreign personal holding 10697
company as defined in section 552 of the Internal Revenue Code; 10698

(5) Any related member that is not a corporation and is 10699
directly, indirectly, constructively, or beneficially owned in 10700
whole or in part by a foreign personal holding company as 10701
defined in section 552 of the Internal Revenue Code; 10702

(6) Any related member if that related member or another 10703
related member directly or indirectly paid, accrued, or incurred 10704
to, or in connection directly or indirectly with one or more 10705
direct or indirect transactions with, another related member any 10706
interest expenses and costs or intangible expenses and costs in 10707
an amount less than, equal to, or greater than such amounts 10708
received from the corporation. Division (C) (6) of this section 10709
applies only if, within a one-hundred-twenty-month period 10710
commencing three years prior to the beginning of the tax year, a 10711
related member directly or indirectly paid, accrued, or incurred 10712
such amounts or losses with respect to one or more direct or 10713
indirect transactions with an entity described in divisions (C) 10714
(1) to (5) of this section. A rebuttable presumption exists that 10715
a related member did so pay, accrue, or incur such amounts or 10716
losses with respect to one or more direct or indirect 10717
transactions with an entity described in divisions (C) (1) to (5) 10718
of this section. A corporation can rebut this presumption only 10719
with a preponderance of the evidence to the contrary. 10720

(7) Any related member that, with respect to indebtedness 10721
directly or indirectly owed by the corporation to the related 10722
member, directly or indirectly charged or imposed on the 10723
corporation an excess interest rate. If the related member has 10724
charged or imposed on the corporation an excess interest rate, 10725
the adjustment required by division (C) (7) of this section with 10726
respect to such interest expenses and costs directly or 10727
indirectly paid, accrued, or incurred to the related member in 10728
connection with such indebtedness does not include so much of 10729

such interest expenses and costs that the corporation would have 10730
directly or indirectly paid, accrued, or incurred if the related 10731
member had charged or imposed the highest possible interest rate 10732
that would not have been an excess interest rate. For purposes 10733
of division (C) (7) of this section, an excess interest rate is 10734
an annual rate that exceeds by more than three per cent the 10735
greater of the rate per annum prescribed by section 5703.47 of 10736
the Revised Code in effect at the time of the origination of the 10737
indebtedness, or the rate per annum prescribed by section 10738
5703.47 of the Revised Code in effect at the time the 10739
corporation paid, accrued, or incurred the interest expense or 10740
cost to the related member. 10741

(D) (1) In making the adjustment required by division (C) 10742
of this section, the corporation shall make the adjustment 10743
required by section 5733.057 of the Revised Code. The 10744
adjustments required by division (C) of this section are not 10745
required if either of the following applies: 10746

(a) The corporation establishes by clear and convincing 10747
evidence that the adjustments are unreasonable. 10748

(b) The corporation and the tax commissioner agree in 10749
writing to the application or use of alternative adjustments and 10750
computations to more properly reflect the base required to be 10751
determined in accordance with division (B) of section 5733.05 of 10752
the Revised Code. Nothing in division (D) (1) (b) of this section 10753
shall be construed to limit or negate the tax commissioner's 10754
authority to otherwise enter into agreements and compromises 10755
otherwise allowed by law. 10756

(2) The adjustments required by divisions (C) (1) to (5) of 10757
this section do not apply to such portion of interest expenses 10758
and costs and intangible expenses and costs that the corporation 10759

can establish by the preponderance of the evidence meets both of 10760
the following: 10761

(a) The related member during the same taxable year 10762
directly or indirectly paid, accrued, or incurred such portion 10763
to a person who is not a related member. 10764

(b) The transaction giving rise to the interest expenses 10765
and costs or the intangible expenses and costs between the 10766
corporation and the related member did not have as a principal 10767
purpose the avoidance of any portion of the tax due under this 10768
chapter. 10769

(3) The adjustments required by division (C) (6) of this 10770
section do not apply to such portion of interest expenses and 10771
costs and intangible expenses and costs that the corporation can 10772
establish by the preponderance of the evidence meets both of the 10773
following: 10774

(a) The entity described in any of divisions (C) (1) to (6) 10775
of this section to whom the related member directly or 10776
indirectly paid, accrued, or incurred such portion, in turn 10777
during the same taxable year directly or indirectly paid, 10778
accrued or incurred such portion to a person who is not a 10779
related member, and 10780

(b) The transaction or transactions giving rise to the 10781
interest expenses and costs or the intangible expenses and costs 10782
between the corporation, the related member, and the entity 10783
described in any of divisions (C) (1) to (5) of this section did 10784
not have as a principal purpose the avoidance of any portion of 10785
the tax due under this chapter. 10786

(4) The adjustments required by division (C) of this 10787
section apply except to the extent that the increased tax, if 10788

any, attributable to such adjustments would have been avoided if 10789
both the corporation and the related member had been eligible to 10790
make and had timely made the election to combine in accordance 10791
with division (B) of section 5733.052 of the Revised Code. 10792

(E) Except as otherwise provided in division (F) of this 10793
section, if, on the day that is one year after the day the 10794
corporation files its report, the corporation has not made the 10795
adjustment required by this section or has not fully paid the 10796
tax and interest, if any, imposed by this chapter and 10797
attributable to such adjustment, the corporation is subject to a 10798
penalty equal to twice the interest charged under division (A) 10799
of section 5733.26 of the Revised Code for the delinquent 10800
payment of such tax and interest. For the purpose of the 10801
computation of the penalty imposed by this division, such 10802
penalty shall be deemed to be part of the tax due on the dates 10803
prescribed by this chapter without regard to the one-year period 10804
set forth in this division. The penalty imposed by this division 10805
is not in lieu of but is in addition to all other penalties, 10806
other similar charges, and interest imposed by this chapter. The 10807
tax commissioner may waive, abate, modify, or refund, with 10808
interest, all or any portion of the penalty imposed by this 10809
division only if the corporation establishes beyond a reasonable 10810
doubt that both the failure to fully comply with this section 10811
and the failure to fully pay such tax and interest within one 10812
year after the date the corporation files its report were not in 10813
any part attributable to the avoidance of any portion of the tax 10814
imposed by section 5733.06 of the Revised Code. 10815

(F) (1) For purposes of this division, "tax differential" 10816
means the difference between the tax that is imposed by section 10817
5733.06 of the Revised Code and that is attributable to the 10818
adjustment required by this section and the amount paid that is 10819

so attributable, prior to the day that is one year after the day 10820
the corporation files its report. 10821

(2) The penalty imposed by division (E) of this section 10822
does not apply if the tax differential meets both of the 10823
following requirements: 10824

(a) The tax differential is less than ten per cent of the 10825
tax imposed by section 5733.06 of the Revised Code; and 10826

(b) The difference is less than fifty thousand dollars. 10827

(3) Nothing in division (F) of this section shall be 10828
construed to waive, abate, or modify any other penalties, other 10829
similar charges, or interest imposed by other sections of this 10830
chapter. 10831

(G) Nothing in this section shall require a corporation to 10832
add to its net income more than once any amount of interest 10833
expenses and costs or intangible expenses and costs that the 10834
corporation pays, accrues, or incurs to a related member 10835
described in division (C) of this section. 10836

Sec. 5733.05. As used in this section, "qualified 10837
research" means laboratory research, experimental research, and 10838
other similar types of research; research in developing or 10839
improving a product; or research in developing or improving the 10840
means of producing a product. It does not include market 10841
research, consumer surveys, efficiency surveys, management 10842
studies, ordinary testing or inspection of materials or products 10843
for quality control, historical research, or literary research. 10844
"Product" as used in this paragraph does not include services or 10845
intangible property. 10846

The annual report determines the value of the issued and 10847
outstanding shares of stock of the taxpayer, which under 10848

division (A) or divisions (B) and (C) of this section is the 10849
base or measure of the franchise tax liability. Such 10850
determination shall be made as of the date shown by the report 10851
to have been the beginning of the corporation's annual 10852
accounting period that includes the first day of January of the 10853
tax year. For the purposes of this chapter, the value of the 10854
issued and outstanding shares of stock of any corporation that 10855
is a financial institution shall be deemed to be the value as 10856
calculated in accordance with division (A) of this section. For 10857
the purposes of this chapter, the value of the issued and 10858
outstanding shares of stock of any corporation that is not a 10859
financial institution shall be deemed to be the values as 10860
calculated in accordance with divisions (B) and (C) of this 10861
section. Except as otherwise required by this section or section 10862
5733.056 of the Revised Code, the value of a taxpayer's issued 10863
and outstanding shares of stock under division (A) or (C) of 10864
this section does not include any amount that is treated as a 10865
liability under generally accepted accounting principles. 10866

(A) The total value, as shown by the books of the 10867
financial institution, of its capital, surplus, whether earned 10868
or unearned, undivided profits, and reserves shall be determined 10869
as prescribed by section 5733.056 of the Revised Code for tax 10870
years 1998 and thereafter. 10871

(B) The sum of the corporation's net income during the 10872
corporation's taxable year, allocated or apportioned to this 10873
state as prescribed in divisions (B) (1) and (2) of this section, 10874
and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 10875
5733.059, and 5733.0510 of the Revised Code: 10876

(1) The net nonbusiness income allocated or apportioned to 10877
this state as provided by section 5733.051 of the Revised Code. 10878

(2) The amount of Ohio apportioned net business income, 10879
which shall be calculated by multiplying the corporation's net 10880
business income by a fraction. The numerator of the fraction is 10881
the sum of the following products: the property factor 10882
multiplied by twenty, the payroll factor multiplied by twenty, 10883
and the sales factor multiplied by sixty. The denominator of the 10884
fraction is one hundred, provided that the denominator shall be 10885
reduced by twenty if the property factor has a denominator of 10886
zero, by twenty if the payroll factor has a denominator of zero, 10887
and by sixty if the sales factor has a denominator of zero. 10888

The property, payroll, and sales factors shall be 10889
determined as follows, but the numerator and the denominator of 10890
the factors shall not include the portion of any property, 10891
payroll, and sales otherwise includible in the factors to the 10892
extent that the portion relates to, or is used in connection 10893
with, the production of nonbusiness income allocated under 10894
section 5733.051 of the Revised Code: 10895

(a) The property factor is a fraction computed as follows: 10896

The numerator of the fraction is the average value of the 10897
corporation's real and tangible personal property owned or 10898
rented, and used in the trade or business in this state during 10899
the taxable year, and the denominator of the fraction is the 10900
average value of all the corporation's real and tangible 10901
personal property owned or rented, and used in the trade or 10902
business everywhere during such year. Real and tangible personal 10903
property used in the trade or business includes, but is not 10904
limited to, real and tangible personal property that the 10905
corporation rents, subrents, leases, or subleases to others if 10906
the income or loss from such rentals, subrentals, leases, or 10907
subleases is business income. There shall be excluded from the 10908

numerator and denominator of the fraction the original cost of 10909
all of the following property within Ohio: property with respect 10910
to which a "pollution control facility" certificate has been 10911
issued pursuant to section 5709.21 of the Revised Code; property 10912
with respect to which an "industrial water pollution control 10913
certificate" has been issued pursuant to that section or former 10914
section 6111.31 of the Revised Code; and property used 10915
exclusively during the taxable year for qualified research. 10916

(i) Property owned by the corporation is valued at its 10917
original cost. Property rented by the corporation is valued at 10918
eight times the net annual rental rate. "Net annual rental rate" 10919
means the annual rental rate paid by the corporation less any 10920
annual rental rate received by the corporation from subrentals. 10921

(ii) The average value of property shall be determined by 10922
averaging the values at the beginning and the end of the taxable 10923
year, but the tax commissioner may require the averaging of 10924
monthly values during the taxable year, if reasonably required 10925
to reflect properly the average value of the corporation's 10926
property. 10927

(b) The payroll factor is a fraction computed as follows: 10928

The numerator of the fraction is the total amount paid in 10929
this state during the taxable year by the corporation for 10930
compensation, and the denominator of the fraction is the total 10931
compensation paid everywhere by the corporation during such 10932
year. There shall be excluded from the numerator and the 10933
denominator of the payroll factor the total compensation paid in 10934
this state to employees who are primarily engaged in qualified 10935
research. 10936

(i) Compensation means any form of remuneration paid to an 10937

employee for personal services. 10938

(ii) Compensation is paid in this state if: (I) the 10939
recipient's service is performed entirely within this state, 10940
(II) the recipient's service is performed both within and 10941
without this state, but the service performed without this state 10942
is incidental to the recipient's service within this state, 10943
(III) some of the service is performed within this state and 10944
either the base of operations, or if there is no base of 10945
operations, the place from which the service is directed or 10946
controlled is within this state, or the base of operations or 10947
the place from which the service is directed or controlled is 10948
not in any state in which some part of the service is performed, 10949
but the recipient's residence is in this state. 10950

(iii) Compensation is paid in this state to any employee 10951
of a common or contract motor carrier corporation, who performs 10952
the employee's regularly assigned duties on a motor vehicle in 10953
more than one state, in the same ratio by which the mileage 10954
traveled by such employee within the state bears to the total 10955
mileage traveled by such employee everywhere during the taxable 10956
year. 10957

(c) The sales factor is a fraction computed as follows: 10958

Except as provided in this section, the numerator of the 10959
fraction is the total sales in this state by the corporation 10960
during the taxable year or part thereof, and the denominator of 10961
the fraction is the total sales by the corporation everywhere 10962
during such year or part thereof. In computing the numerator and 10963
denominator of the fraction, the following shall be eliminated 10964
from the fraction: receipts and any related gains or losses from 10965
the sale or other disposal of excluded assets; dividends or 10966
distributions; and interest or other similar amounts received 10967

for the use of, or for the forbearance of the use of, money. 10968
Also, in computing the numerator and denominator of the sales 10969
factor, in the case of a corporation owning at least eighty per 10970
cent of the issued and outstanding common stock of one or more 10971
insurance companies or public utilities, except an electric 10972
company and a combined company, and, for tax years 2005 and 10973
thereafter, a telephone company, or owning at least twenty-five 10974
per cent of the issued and outstanding common stock of one or 10975
more financial institutions, receipts received by the 10976
corporation from such utilities, insurance companies, and 10977
financial institutions shall be eliminated. As used in this 10978
division, "excluded assets" means property that is either: 10979
intangible property, other than trademarks, trade names, 10980
patents, copyrights, and similar intellectual property; or 10981
tangible personal property or real property where that property 10982
is a capital asset or an asset described in section 1231 of the 10983
Internal Revenue Code, without regard to the holding period 10984
specified therein. 10985

(i) For the purpose of this section and section 5733.03 of 10986
the Revised Code, receipts not eliminated or excluded from the 10987
fraction shall be situated as follows: 10988

Receipts from rents and royalties from real property 10989
located in this state shall be situated to this state. 10990

Receipts from rents and royalties of tangible personal 10991
property, to the extent the tangible personal property is used 10992
in this state, shall be situated to this state. 10993

Receipts from the sale of electricity and of electric 10994
transmission and distribution services shall be situated to this 10995
state in the manner provided under section 5733.059 of the 10996
Revised Code. 10997

Receipts from the sale of real property located in this state shall be sitused to this state. 10998
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Receipts from the sale of tangible personal property shall be sitused to this state if such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 11000
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(ii) Receipts from all other sales not eliminated or excluded from the fraction shall be sitused to this state as follows: 11014
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Receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be sitused to this state to the extent that the receipts are based on the amount of use of that property in this state. If the receipts are not based on the amount of use of that property, but rather on the right to use the property and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be sitused to this state to the extent the receipts are based on the right to use the property in this 11017
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state. 11028

Receipts from the sale of services, and receipts from any 11029
other sales not eliminated or excluded from the sales factor and 11030
not otherwise situated under division (B) (2) (c) of this section, 11031
shall be situated to this state in the proportion to the 11032
purchaser's benefit, with respect to the sale, in this state to 11033
the purchaser's benefit, with respect to the sale, everywhere. 11034
The physical location where the purchaser ultimately uses or 11035
receives the benefit of what was purchased shall be paramount in 11036
determining the proportion of the benefit in this state to the 11037
benefit everywhere. 11038

(iii) Income from receipts eliminated or excluded from the 11039
sales factor under division (B) (2) (c) of this section shall not 11040
be presumed to be nonbusiness income. 11041

(d) If the allocation and apportionment provisions of 11042
division (B) of this section do not fairly represent the extent 11043
of the taxpayer's business activity in this state, the taxpayer 11044
may request, which request must be in writing and must accompany 11045
the report, a timely filed petition for reassessment, or a 11046
timely filed amended report, or the tax commissioner may 11047
require, in respect to all or any part of the taxpayer's 11048
allocated or apportioned base, if reasonable, any one or more of 11049
the following: 11050

(i) Separate accounting; 11051

(ii) The exclusion of any one or more of the factors; 11052

(iii) The inclusion of one or more additional factors that 11053
will fairly represent the taxpayer's allocated or apportioned 11054
base in this state. 11055

An alternative method will be effective only with approval 11056

by the tax commissioner. 11057

Nothing in this section shall be construed to extend any 11058
statute of limitations set forth in this chapter. 11059

(e) The tax commissioner may adopt rules providing for 11060
alternative allocation and apportionment methods, and 11061
alternative calculations of a corporation's base, that apply to 11062
corporations engaged in telecommunications. 11063

(C) (1) The total value, as shown on the books of each 11064
corporation that is not a ~~qualified~~ qualifying holding company, 11065
of the net book value of the corporation's assets less the net 11066
carrying value of its liabilities, and excluding from the 11067
corporation's assets land devoted exclusively to agricultural 11068
use as of the first Monday of June in the corporation's taxable 11069
year as determined by the county auditor of the county in which 11070
the land is located pursuant to section 5713.31 of the Revised 11071
Code, and making any adjustment required by division (D) of this 11072
section. For the purposes of determining that total value, any 11073
reserves shown on the corporation's books shall be considered 11074
liabilities or contra assets, as the case may be, except for any 11075
reserves that are deemed appropriations of retained earnings 11076
under generally accepted accounting principles. 11077

(2) The base upon which the tax is levied under division 11078
(C) of section 5733.06 of the Revised Code shall be computed by 11079
multiplying the amount determined under division (C) (1) of this 11080
section by the fraction determined under divisions (B) (2) (a) to 11081
(c) of this section and, if applicable, divisions (B) (2) (d) (ii) 11082
and (iii) of this section, and without regard to section 11083
5733.052 of the Revised Code, but substituting "net worth" for 11084
"net income" wherever "net income" appears in division (B) (2) (c) 11085
in this section. For purposes of division (C) (2) of this 11086

section, the numerator and denominator of each of the fractions 11087
shall include the portion of any real and tangible personal 11088
property, payroll, and sales, respectively, relating to, or used 11089
in connection with the production of, net nonbusiness income 11090
allocated under section 5733.051 of the Revised Code. Nothing in 11091
this division shall allow any amount to be included in the 11092
numerator or denominator more than once. 11093

(D) (1) If, on the last day of the taxpayer's taxable year 11094
preceding the tax year, the taxpayer is a related member to a 11095
corporation that elects to be a qualifying holding company for 11096
the tax year beginning after the last day of the taxpayer's 11097
taxable year, or if, on the last day of the taxpayer's taxable 11098
year preceding the tax year, a corporation that elects to be a 11099
qualifying holding company for the tax year beginning after the 11100
last day of the taxpayer's taxable year is a related member to 11101
the taxpayer, then the taxpayer's total value for the purposes 11102
of division (C) of this section shall be adjusted by the 11103
qualifying amount. Except as otherwise provided under division 11104
(D) (2) of this section, "qualifying amount" means the amount 11105
that, when added to the taxpayer's total value, and when 11106
subtracted from the net carrying value of the taxpayer's 11107
liabilities computed without regard to division (C) (2) of this 11108
section, or when subtracted from the taxpayer's total value and 11109
when added to the net carrying value of the taxpayer's 11110
liabilities computed without regard to division (D) of this 11111
section, results in the taxpayer's debt-to-equity ratio equaling 11112
the debt-to-equity ratio of the qualifying controlled group on 11113
the last day of the taxable year ending prior to the first day 11114
of the tax year computed on a consolidated basis in accordance 11115
with general accepted accounting principles. For the purposes of 11116
division (D) (1) of this section, the corporation's total value, 11117

after the adjustment required by that division, shall not exceed 11118
the net book value of the corporation's assets. 11119

(2) (a) The amount added to the taxpayer's total value and 11120
subtracted from the net carrying value of the taxpayer's 11121
liabilities shall not exceed the amount of the net carrying 11122
value of the taxpayer's liabilities owed to the taxpayer's 11123
related members. 11124

(b) A liability owed to the taxpayer's related members 11125
includes, but is not limited to, any amount that the corporation 11126
owes to a person that is not a related member if the 11127
corporation's related member or related members in whole or in 11128
part guarantee any portion or all of that amount, or pledge, 11129
hypothecate, mortgage, or carry out any similar transactions to 11130
secure any portion or all of that amount. 11131

(3) The base upon which the tax is levied under division 11132
(C) of section 5733.06 of the Revised Code shall be computed by 11133
multiplying the amount determined under divisions (C) and (D) of 11134
this section but without regard to section 5733.052 of the 11135
Revised Code. 11136

(4) For purposes of division (D) of this section, "related 11137
member" has the same meaning as in section 5733.042 of the 11138
Revised Code. 11139

Sec. 5733.052. (A) At the discretion of the tax 11140
commissioner, any taxpayer that owns or controls either directly 11141
or indirectly more than fifty per cent of the capital stock with 11142
voting rights of one or more other corporations, or has more 11143
than fifty per cent of its capital stock with voting rights 11144
owned or controlled either directly or indirectly by another 11145
corporation, or by related interests that own or control either 11146

directly or indirectly more than fifty per cent of the capital 11147
stock with voting rights of one or more other corporations, may 11148
be required or permitted, for purposes of computing the value of 11149
its issued and outstanding shares of stock under division (B) of 11150
section 5733.05 of the Revised Code, to combine its net income 11151
with the net income of any such other corporations. 11152

(B) A combination of net income may also be made at the 11153
election of any two or more taxpayers each having income, other 11154
than dividend or distribution income, from sources within Ohio, 11155
provided the ownership or control requirements contained in ~~the~~ 11156
division (A) of this section are satisfied and such combination 11157
is elected in a timely report which sets forth such information 11158
as the commissioner requires. This election, once made by two or 11159
more such taxpayers, may not be changed by such taxpayers with 11160
respect to amended reports or reports for future years without 11161
the written consent of the commissioner. As used in this 11162
section, "income from sources within Ohio" means income that 11163
would be allocated or apportioned to Ohio if the taxpayer 11164
computed its franchise tax without regard to this section. 11165

(C) No combination of net income under division (A) of 11166
this section shall be required unless the commissioner 11167
determines that, in order to properly reflect income, such a 11168
combination is necessary because of intercorporate transactions 11169
and the tax liability imposed by section 5733.06 of the Revised 11170
Code. 11171

(D) In case of a combination of income, the net income of 11172
each taxpayer shall be measured by the combined net income of 11173
all the corporations included in the combination. For purposes 11174
of such measurement, each corporation's net income shall be 11175
determined in the same manner as if the corporation were a 11176

taxpayer under this chapter. In computing combined net income, 11177
intercorporate transactions, including dividends or 11178
distributions, between corporations included in the combination 11179
shall be eliminated. If the computation of net income on a 11180
combination of income involves the use of any of the formulas 11181
set forth in this chapter, the factors used in the formulas 11182
shall be the combined totals of the factors for each corporation 11183
included in the combination after the elimination of any 11184
intercorporate transactions. The exemptions and deductions 11185
permitted under this chapter shall be taken in the same manner 11186
as if each corporation filed a separate report. 11187

(E) For purposes of division (B) of section 5733.05 of the 11188
Revised Code, each taxpayer's net income allocated or 11189
apportioned to this state shall be computed as follows: to 11190
compute the taxpayer's net income allocated to this state for 11191
purposes of division (B) (1) of section 5733.05 of the Revised 11192
Code, the taxpayer's net income for sources allocated under 11193
section 5733.051 of the Revised Code shall be separately 11194
determined, eliminating intercorporate transactions, and 11195
allocated to this state as provided by section 5733.051 of the 11196
Revised Code. To compute the taxpayer's net income apportioned 11197
to this state for purposes of division (B) (2) of section 5733.05 11198
of the Revised Code, the combined net income, other than net 11199
income from sources allocated under section 5733.051 of the 11200
Revised Code, shall be apportioned to Ohio and then prorated to 11201
the taxpayer on the basis of its proportionate part of the 11202
factors used to apportion the total of such net income to Ohio. 11203

Sec. 5733.055. (A) As used in this section: 11204

(1) "Ceiling amount" means the excess of the amount 11205
described in division (A) (1) (a) of this section over the amount 11206

described in division (A) (1) (b) of this section: 11207

(a) The amount of income allocated and apportioned to this 11208
state in accordance with this chapter but without regard to and 11209
without application of the adjustments required by this section; 11210

(b) The amount of income allocated and apportioned to this 11211
state in accordance with this chapter but without regard to and 11212
without application of the adjustments required by both this 11213
section and division (I) (13) of section 5733.04 of the Revised 11214
Code. 11215

(2) "Income adjustment amount" means the sum of the 11216
amounts described in divisions (A) (2) (a) and (b) of this 11217
section: 11218

(a) The related member's net interest income actually 11219
allocated and apportioned to other states that impose a tax on 11220
or measured by income, in accordance with the other states' 11221
allocation and apportionment rules; 11222

(b) The related member's net intangible income actually 11223
allocated and apportioned to other states that impose a tax on 11224
or measured by income, in accordance with the other states' 11225
allocation and apportionment rules. 11226

For purposes of division (A) (2) of this section, "other 11227
states" does not include those states under whose laws the 11228
taxpayer files or could have elected to file with the related 11229
member, or the related member files or could have elected to 11230
file with another related member, a combined income tax report 11231
or return, a consolidated income tax report or return, or any 11232
other report or return where such report or return is due 11233
because of the imposition of a tax measured on or by income and 11234
such report or return results in the elimination of the tax 11235

effects from transactions directly or indirectly between either 11236
the taxpayer and the related member or between the related 11237
member and another corporation if such other corporation, during 11238
a one-hundred-twenty-month period commencing three years prior 11239
to the beginning of the tax year, directly or indirectly paid, 11240
accrued, or incurred intangible expenses and costs or interest 11241
expenses and costs to an entity described in divisions (C) (1) to 11242
(5) of section 5733.042 of the Revised Code. 11243

(3) "Intangible expenses and costs" has the same meaning 11244
as in division (A) (3) of section 5733.042 of the Revised Code. 11245

(4) "Interest expenses and costs" has the same meaning as 11246
in division (A) (4) of section 5733.042 of the Revised Code. 11247

(5) "Intangible income and revenue" are those amounts 11248
earned or received by a related member from a taxpayer for the 11249
taxpayer's use of intangible property. Such amounts include, but 11250
are not limited to, royalty, patent, technical, and copyright 11251
fees, licensing fees, and other similar income and revenue. 11252

(6) "Interest income and revenue" are those amounts earned 11253
or received by a related member from a taxpayer to the extent 11254
such amounts are allowed as deductions under section 163 of the 11255
Internal Revenue Code for purposes of determining the taxpayer's 11256
taxable income under the Internal Revenue Code. 11257

(7) "Net intangible income" means intangible income and 11258
revenue reduced by intangible expenses and costs paid or accrued 11259
directly or indirectly to a related member described in any of 11260
divisions (C) (1) to (7) of section 5747.042 of the Revised Code. 11261

(8) "Net interest income" means interest income and 11262
revenue reduced by interest expenses and costs paid or accrued 11263
directly or indirectly to a related member described in any of 11264

divisions (C) (1) to (7) of section ~~5747.042~~5733.042 of the 11265
Revised Code. 11266

(B) Except as set forth in division (C) of this section, a 11267
deduction from the corporation's net income allocated and 11268
apportioned to this state shall be allowed in an amount equal to 11269
the income adjustment amount described in division (A) (2) of 11270
this section. However, in no case shall the deduction be greater 11271
than the ceiling amount described in division (A) (1) of this 11272
section. 11273

(C) The deduction provided by division (B) of this section 11274
is available to the taxpayer only if the taxpayer establishes 11275
with clear and convincing evidence that the intangible expenses 11276
and costs and the interest expenses and costs paid, accrued, or 11277
incurred by the corporation to a related member did not have as 11278
a principal purpose the avoidance of any portion of the tax 11279
imposed by section 5733.06 of the Revised Code. 11280

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 11281
Chapter 5747. of the Revised Code: 11282

(A) (1) "Adjusted qualifying amount" means either of the 11283
following: 11284

(a) The sum of each qualifying investor's distributive 11285
share of the income, gain, expense, or loss of a qualifying 11286
pass-through entity for the qualifying taxable year of the 11287
qualifying pass-through entity multiplied by the apportionment 11288
fraction defined in division (B) of this section, subject to 11289
section 5733.401 of the Revised Code and divisions (A) (2) to (7) 11290
of this section; 11291

(b) The sum of each qualifying beneficiary's share of the 11292
qualifying net income and qualifying net gain distributed by a 11293

qualifying trust for the qualifying taxable year of the 11294
qualifying trust multiplied by the apportionment fraction 11295
defined in division (B) of this section, subject to section 11296
5733.401 of the Revised Code and divisions (A) (2) to (7) of this 11297
section. 11298

(2) The sum shall exclude any amount which, pursuant to 11299
the Constitution of the United States, the Constitution of Ohio, 11300
or any federal law is not subject to a tax on or measured by net 11301
income. 11302

(3) For the purposes of Chapters 5733. and 5747. of the 11303
Revised Code, the profit or net income of the qualifying entity 11304
shall be increased by disallowing all amounts representing 11305
expenses, other than amounts described in division (A) (7) of 11306
this section, that the qualifying entity paid to or incurred 11307
with respect to direct or indirect transactions with one or more 11308
related members, excluding the cost of goods sold calculated in 11309
accordance with section 263A of the Internal Revenue Code and 11310
United States department of the treasury regulations issued 11311
thereunder. Nothing in division (A) (3) of this section shall be 11312
construed to limit solely to this chapter the application of 11313
section 263A of the Internal Revenue Code and United States 11314
department of the treasury regulations issued thereunder. 11315

(4) For the purposes of Chapters 5733. and 5747. of the 11316
Revised Code, the profit or net income of the qualifying entity 11317
shall be increased by disallowing all recognized losses, other 11318
than losses from sales of inventory the cost of which is 11319
calculated in accordance with section 263A of the Internal 11320
Revenue Code and United States department of the treasury 11321
regulations issued thereunder, with respect to all direct or 11322
indirect transactions with one or more related members. For the 11323

purposes of Chapters 5733. and 5747. of the Revised Code, losses 11324
from the sales of such inventory shall be allowed only to the 11325
extent calculated in accordance with section 482 of the Internal 11326
Revenue Code and United States department of the treasury 11327
regulations issued thereunder. Nothing in division (A) (4) of 11328
this section shall be construed to limit solely to this section 11329
the application of section 263A and section 482 of the Internal 11330
Revenue Code and United States department of the treasury 11331
regulations issued thereunder. 11332

(5) The sum shall be increased or decreased by an amount 11333
equal to the qualifying investor's or qualifying beneficiary's 11334
distributive or proportionate share of the amount that the 11335
qualifying entity would be required to add or deduct under 11336
divisions (A) ~~(20)~~ (18) and ~~(21)~~ (19) of section 5747.01 of the 11337
Revised Code if the qualifying entity were a taxpayer for the 11338
purposes of Chapter 5747. of the Revised Code. 11339

(6) The sum shall be computed without regard to section 11340
5733.051 or division (D) of section 5733.052 of the Revised 11341
Code. 11342

(7) For the purposes of Chapters 5733. and 5747. of the 11343
Revised Code, guaranteed payments or compensation paid to 11344
investors by a qualifying entity that is not subject to the tax 11345
imposed by section 5733.06 of the Revised Code shall be 11346
considered a distributive share of income of the qualifying 11347
entity. Division (A) (7) of this section applies only to such 11348
payments or such compensation paid to an investor who at any 11349
time during the qualifying entity's taxable year holds at least 11350
a twenty per cent direct or indirect interest in the profits or 11351
capital of the qualifying entity. For the purposes of this 11352
division, guaranteed payments and compensation shall be 11353

considered to be paid to an investor by a qualifying entity if 11354
the qualifying entity in which the investor holds at least a 11355
twenty per cent direct or indirect interest is a client employer 11356
of a professional employer organization, as those terms are 11357
defined in section 4125.01 of the Revised Code, and the 11358
guaranteed payments or compensation are paid to the investor by 11359
that professional employer organization. 11360

(B) "Apportionment fraction" means: 11361

(1) With respect to a qualifying pass-through entity other 11362
than a financial institution, the fraction calculated pursuant 11363
to division (B)(2) of section 5733.05 of the Revised Code as if 11364
the qualifying pass-through entity were a corporation subject to 11365
the tax imposed by section 5733.06 of the Revised Code; 11366

(2) With respect to a qualifying pass-through entity that 11367
is a financial institution, the fraction calculated pursuant to 11368
division (C) of section 5733.056 of the Revised Code as if the 11369
qualifying pass-through entity were a financial institution 11370
subject to the tax imposed by section 5733.06 of the Revised 11371
Code. 11372

(3) With respect to a qualifying trust, the fraction 11373
calculated pursuant to division (B)(2) of section 5733.05 of the 11374
Revised Code as if the qualifying trust were a corporation 11375
subject to the tax imposed by section 5733.06 of the Revised 11376
Code, except that the property, payroll, and sales fractions 11377
shall be calculated by including in the numerator and 11378
denominator of the fractions only the property, payroll, and 11379
sales, respectively, directly related to the production of 11380
income or gain from acquisition, ownership, use, maintenance, 11381
management, or disposition of tangible personal property located 11382
in this state at any time during the qualifying trust's 11383

qualifying taxable year or of real property located in this 11384
state. 11385

(C) "Qualifying beneficiary" means any individual that, 11386
during the qualifying taxable year of a qualifying trust, is a 11387
beneficiary of that trust, but does not include an individual 11388
who is a resident taxpayer for the purposes of Chapter 5747. of 11389
the Revised Code for the entire qualifying taxable year of the 11390
qualifying trust. 11391

(D) "Fiscal year" means an accounting period ending on any 11392
day other than the thirty-first day of December. 11393

(E) "Individual" means a natural person. 11394

(F) "Month" means a calendar month. 11395

(G) ~~"Partnership" has the same meaning as in section~~ 11396
~~5747.01 of the Revised Code.~~ "Distributive share" includes the 11397
sum of the income, gain, expense, or loss of a disregarded 11398
entity or qualified subchapter S subsidiary. 11399

(H) "Investor" means any person that, during any portion 11400
of a taxable year of a qualifying pass-through entity, is a 11401
partner, member, shareholder, or investor in that qualifying 11402
pass-through entity. 11403

(I) Except as otherwise provided in section 5733.402 or 11404
5747.401 of the Revised Code, "qualifying investor" means any 11405
investor except those described in divisions (I) (1) to (9) of 11406
this section. 11407

(1) An investor satisfying one of the descriptions under 11408
section 501(a) or (c) of the Internal Revenue Code, a 11409
partnership with equity securities registered with the United 11410
States securities and exchange commission under section 12 of 11411

the "Securities Exchange Act of 1934," as amended, or an 11412
investor described in division (F) of section 3334.01, or 11413
division (A) or (C) of section 5733.09 of the Revised Code for 11414
the entire qualifying taxable year of the qualifying pass- 11415
through entity. 11416

(2) An investor who is either an individual or an estate 11417
and is a resident taxpayer for the purposes of section 5747.01 11418
of the Revised Code for the entire qualifying taxable year of 11419
the qualifying pass-through entity. 11420

(3) An investor who is an individual for whom the 11421
qualifying pass-through entity makes a good faith and reasonable 11422
effort to comply fully and timely with the filing and payment 11423
requirements set forth in division (D) of section 5747.08 of the 11424
Revised Code and section 5747.09 of the Revised Code with 11425
respect to the individual's adjusted qualifying amount for the 11426
entire qualifying taxable year of the qualifying pass-through 11427
entity. 11428

(4) An investor that is another qualifying pass-through 11429
entity having only investors described in division (I)(1), (2), 11430
(3), or (6) of this section during the three-year period 11431
beginning twelve months prior to the first day of the qualifying 11432
taxable year of the qualifying pass-through entity. 11433

(5) An investor that is another pass-through entity having 11434
no investors other than individuals and estates during the 11435
qualifying taxable year of the qualifying pass-through entity in 11436
which it is an investor, and that makes a good faith and 11437
reasonable effort to comply fully and timely with the filing and 11438
payment requirements set forth in division (D) of section 11439
5747.08 of the Revised Code and section 5747.09 of the Revised 11440
Code with respect to investors that are not resident taxpayers 11441

of this state for the purposes of Chapter 5747. of the Revised 11442
Code for the entire qualifying taxable year of the qualifying 11443
pass-through entity in which it is an investor. 11444

(6) An investor that is ~~a financial institution required~~ 11445
~~to calculate the tax in accordance with division (E) of section~~ 11446
~~5733.06 of the Revised Code on the first day of January of the~~ 11447
~~calendar year immediately following the last day of the~~ 11448
~~financial institution's calendar or fiscal year in which ends~~ 11449
~~the taxpayer's taxable year treated as a C corporation for~~ 11450
federal income tax purposes for the entire qualifying taxable 11451
year of the qualifying pass-through entity in which it is an 11452
investor. 11453

(7) An investor other than an individual that satisfies 11454
all the following: 11455

(a) The investor submits a written statement to the 11456
qualifying pass-through entity stating that the investor 11457
irrevocably agrees that the investor has nexus with this state 11458
under the Constitution of the United States and is subject to 11459
and liable for the tax calculated under division (A) or (B) of 11460
section 5733.06 of the Revised Code with respect to the 11461
investor's adjusted qualifying amount for the entire qualifying 11462
taxable year of the qualifying pass-through entity. The 11463
statement is subject to the penalties of perjury, shall be 11464
retained by the qualifying pass-through entity for no fewer than 11465
seven years, and shall be delivered to the tax commissioner upon 11466
request. 11467

(b) The investor makes a good faith and reasonable effort 11468
to comply timely and fully with all the reporting and payment 11469
requirements set forth in Chapter 5733. of the Revised Code with 11470
respect to the investor's adjusted qualifying amount for the 11471

entire qualifying taxable year of the qualifying pass-through 11472
entity. 11473

(c) Neither the investor nor the qualifying pass-through 11474
entity in which it is an investor, before, during, or after the 11475
qualifying pass-through entity's qualifying taxable year, 11476
carries out any transaction or transactions with one or more 11477
related members of the investor or the qualifying pass-through 11478
entity resulting in a reduction or deferral of tax imposed by 11479
Chapter 5733. of the Revised Code with respect to all or any 11480
portion of the investor's adjusted qualifying amount for the 11481
qualifying pass-through entity's taxable year, or that 11482
constitute a sham, lack economic reality, or are part of a 11483
series of transactions the form of which constitutes a step 11484
transaction or transactions or does not reflect the substance of 11485
those transactions. 11486

(8) Any other investor that the tax commissioner may 11487
designate by rule. The tax commissioner may adopt rules 11488
including a rule defining "qualifying investor" or "qualifying 11489
beneficiary" and governing the imposition of the withholding tax 11490
imposed by section 5747.41 of the Revised Code with respect to 11491
an individual who is a resident taxpayer for the purposes of 11492
Chapter 5747. of the Revised Code for only a portion of the 11493
qualifying taxable year of the qualifying entity. 11494

(9) An investor that is a trust or fund the beneficiaries 11495
of which, during the qualifying taxable year of the qualifying 11496
pass-through entity, are limited to the following: 11497

(a) A person that is or may be the beneficiary of a trust 11498
subject to Subchapter D of Chapter 1 of Subtitle A of the 11499
Internal Revenue Code. 11500

(b) A person that is or may be the beneficiary of or the recipient of payments from a trust or fund that is a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) of the Internal Revenue Code apply to the determination of whether such a person satisfies division (I)(9) of this section.

(c) A person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. Division (I)(9)(c) of this section applies only if the trust, prior to the due date for filing the qualifying pass-through entity's return for taxes imposed by section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code, irrevocably agrees in writing that for the taxable year during or for which the trust distributes any of its income to any of its beneficiaries, the trust is a qualifying trust and will pay the estimated tax, and will withhold and pay the withheld tax, as required under sections 5747.40 to 5747.453 of the Revised Code.

For the purposes of division (I)(9) of this section, a trust or fund shall be considered to have a beneficiary other than persons described under divisions (I)(9)(a) to (c) of this section if a beneficiary would not qualify under those divisions under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." A trust or fund described in division (I)(9) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to the tax benefits provided under division (I)(9) of this section does not have as a principal

purpose a claim of those tax benefits. Nothing in this section 11532
shall be construed to limit solely to this section the 11533
application of the doctrines referred to in this paragraph. 11534

(J) "Qualifying net gain" means any recognized net gain 11535
with respect to the acquisition, ownership, use, maintenance, 11536
management, or disposition of tangible personal property located 11537
in this state at any time during a trust's qualifying taxable 11538
year or real property located in this state. 11539

(K) "Qualifying net income" means any recognized income, 11540
net of related deductible expenses, other than distributions 11541
deductions with respect to the acquisition, ownership, use, 11542
maintenance, management, or disposition of tangible personal 11543
property located in this state at any time during the trust's 11544
qualifying taxable year or real property located in this state. 11545

(L) "Qualifying entity" means a qualifying pass-through 11546
entity or a qualifying trust. 11547

(M) "Qualifying trust" means a trust subject to subchapter 11548
J of the Internal Revenue Code that, during any portion of the 11549
trust's qualifying taxable year, has income or gain from the 11550
acquisition, management, ownership, use, or disposition of 11551
tangible personal property located in this state at any time 11552
during the trust's qualifying taxable year or real property 11553
located in this state. "Qualifying trust" does not include a 11554
person described in section 501(c) of the Internal Revenue Code 11555
or a person described in division (C) of section 5733.09 of the 11556
Revised Code. 11557

(N) "Qualifying pass-through entity" means a pass-through 11558
entity as defined in section 5733.04 of the Revised Code, 11559
excluding: a person described in section 501(c) of the Internal 11560

Revenue Code; a partnership with equity securities registered 11561
with the United States securities and exchange commission under 11562
section 12 of the Securities Exchange Act of 1934, as amended; 11563
or a person described in division (C) of section 5733.09 of the 11564
Revised Code. 11565

(O) "Quarter" means the first three months, the second 11566
three months, the third three months, or the last three months 11567
of a qualifying entity's qualifying taxable year. 11568

(P) "Related member" has the same meaning as in division 11569
(A) (6) of section 5733.042 of the Revised Code without regard to 11570
division (B) of that section. However, for the purposes of 11571
divisions (A) (3) and (4) of this section only, "related member" 11572
has the same meaning as in division (A) (6) of section 5733.042 11573
of the Revised Code without regard to division (B) of that 11574
section, but shall be applied by substituting "forty per cent" 11575
for "twenty per cent" wherever "twenty per cent" appears in 11576
division (A) of that section. 11577

(Q) "Return" or "report" means the notifications and 11578
reports required to be filed pursuant to sections 5747.42 to 11579
5747.45 of the Revised Code for the purpose of reporting the tax 11580
imposed under section 5733.41 or 5747.41 of the Revised Code, 11581
and included declarations of estimated tax when so required. 11582

(R) "Qualifying taxable year" means the calendar year or 11583
the qualifying entity's fiscal year ending during the calendar 11584
year, or fractional part thereof, for which the adjusted 11585
qualifying amount is calculated pursuant to sections 5733.40 and 11586
5733.41 or sections 5747.40 to 5747.453 of the Revised Code. 11587

~~(S) "Distributive share" includes the sum of the income, 11588
gain, expense, or loss of a disregarded entity or qualified 11589~~

subchapter S subsidiary.	11590
Sec. 5733.98. (A) To provide a uniform procedure for	11591
calculating the amount of tax imposed by section 5733.06 of the	11592
Revised Code that is due under this chapter, a taxpayer shall	11593
claim any credits to which it is entitled in the following	11594
order, except as otherwise provided in section 5733.058 of the	11595
Revised Code:	11596
(1) For tax year 2005, the credit for taxes paid by a	11597
qualifying pass-through entity allowed under section 5733.0611	11598
of the Revised Code;	11599
(2) The credit allowed for financial institutions under	11600
section 5733.45 of the Revised Code;	11601
(3) The credit for qualifying affiliated groups under	11602
section 5733.068 of the Revised Code;	11603
(4) The subsidiary corporation credit under section	11604
5733.067 of the Revised Code;	11605
(5) The credit for recycling and litter prevention	11606
donations under section 5733.064 of the Revised Code;	11607
(6) The credit for employers that enter into agreements	11608
with child day-care centers under section 5733.36 of the Revised	11609
Code;	11610
(7) The credit for employers that reimburse employee child	11611
care expenses under section 5733.38 of the Revised Code;	11612
(8) The credit for purchases of lights and reflectors	11613
under section 5733.44 of the Revised Code;	11614
(9) The nonrefundable job retention credit under division	11615
(B) of section 5733.0610 of the Revised Code;	11616

(10) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	11617 11618 11619
(11) The job training credit under section 5733.42 of the Revised Code;	11620 11621
(12) The credit for qualified research expenses under section 5733.351 of the Revised Code;	11622 11623
(13) The enterprise zone credit under section 5709.66 of the Revised Code;	11624 11625
(14) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	11626 11627
(15) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	11628 11629
(16) The ethanol plant investment credit under section 5733.46 of the Revised Code;	11630 11631
(17) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	11632 11633
(18) <u>(17)</u> The export sales credit under section 5733.069 of the Revised Code;	11634 11635
(19) <u>(18)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	11636 11637
(20) <u>(19)</u> The credit for using Ohio coal under section 5733.39 of the Revised Code;	11638 11639
(21) <u>(20)</u> The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;	11640 11641
(22) <u>(21)</u> The credit for small telephone companies under section 5733.57 of the Revised Code;	11642 11643

(23) <u>(22)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	11644 11645
(24) <u>(23)</u> For tax year 2005, the credit for providing programs to aid the communicatively impaired under division (A) of section 5733.56 of the Revised Code;	11646 11647 11648
(25) <u>(24)</u> The research and development credit under section 5733.352 of the Revised Code;	11649 11650
(26) <u>(25)</u> For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;	11651 11652 11653
(27) <u>(26)</u> The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;	11654 11655
(28) <u>(27)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5733.0610 of the Revised Code;	11656 11657 11658
(29) <u>(28)</u> The refundable credit for tax withheld under division (B) (2) of section 5747.062 of the Revised Code;	11659 11660
(30) <u>(29)</u> The refundable credit under section 5733.49 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;	11661 11662 11663 11664
(31) <u>(30)</u> For tax years 2006, 2007, and 2008, the refundable credit allowable under division (B) of section 5733.56 of the Revised Code;	11665 11666 11667
(32) <u>(31)</u> The refundable motion picture production credit under section 5733.59 of the Revised Code.	11668 11669
(B) For any credit except the refundable credits	11670

enumerated in this section, the amount of the credit for a tax 11671
year shall not exceed the tax due after allowing for any other 11672
credit that precedes it in the order required under this 11673
section. Any excess amount of a particular credit may be carried 11674
forward if authorized under the section creating that credit. 11675

Sec. 5735.026. (A) The tax commissioner, for the purposes 11676
of administering this chapter, shall issue an exporter license 11677
to a person that receives motor fuel in this state and exports 11678
that fuel out of this state and that demonstrates to the tax 11679
commissioner's satisfaction that the person is an exporter. 11680

(B) To obtain an exporter license, a person shall file, 11681
under oath, an application with the commissioner in such form as 11682
the commissioner prescribes. The application shall set forth the 11683
following information: 11684

(1) The name under which the exporter will transact 11685
business within the state; 11686

(2) The location, including street number address, of the 11687
exporter's principal office or place of business; 11688

(3) The name and address of the owner, or the names and 11689
addresses of the partners if such exporter is a partnership, or 11690
the names and addresses of the principal officers if the 11691
exporter is a corporation or an association; 11692

(4) A certified copy of the certificate or license issued 11693
by the ~~Secretary of State~~ secretary of state showing that the 11694
corporation is authorized to transact business in this state if 11695
the exporter is a corporation organized under the laws of 11696
another state, territory, or country; 11697

(5) For an exporter described in division (DD) (1) of 11698
section 5735.01 of the Revised Code, a copy of the applicant's 11699

license or certificate to collect and remit motor fuel taxes or 11700
sell or distribute motor fuel in the specified destination state 11701
or states for which the license or certificate is to be issued; 11702

(6) Any other information the commissioner may require. 11703

(C) (1) After a hearing as provided in division (C) (2) of 11704
this section, the commissioner may refuse to issue a license to 11705
transact business as an exporter of motor fuel in the following 11706
circumstances: 11707

(a) The applicant has previously had a license issued 11708
under this chapter canceled for cause by the commissioner; 11709

(b) The commissioner believes that an application is not 11710
filed in good faith; 11711

(c) The applicant has previously violated any provision of 11712
this chapter; 11713

(d) The application is filed as a subterfuge by the 11714
applicant for the real person in interest who has previously had 11715
a license issued under this chapter canceled for cause by the 11716
commissioner or who has violated any provision of this chapter. 11717

(2) The commissioner shall conduct a hearing before 11718
refusing to issue a license to transact business as an exporter 11719
in any of the circumstances described in division (C) (1) of this 11720
section. The applicant shall be given five days' notice, in 11721
writing, of the hearing. The applicant may appear in person or 11722
be represented by counsel, and may present testimony at the 11723
hearing. 11724

(D) When an application in proper form has been accepted 11725
for filing, the commissioner shall issue to such exporter a 11726
license to transact business as an exporter of motor fuel in 11727

this state, subject to cancellation of such license as provided 11728
by law. 11729

(E) No person shall make a false or fraudulent statement 11730
on the application required by this section. 11731

Sec. 5735.06. (A) On or before the last day of each month, 11732
each motor fuel dealer shall file with the tax commissioner a 11733
report for the preceding calendar month on a form prescribed by 11734
the commissioner for that purpose. The report shall include the 11735
following information: 11736

(1) An itemized statement of the number of gallons of all 11737
motor fuel received during the preceding calendar month by such 11738
motor fuel dealer, which has been produced, refined, prepared, 11739
distilled, manufactured, blended, or compounded by such motor 11740
fuel dealer in the state; 11741

(2) An itemized statement of the number of gallons of all 11742
motor fuel received by such motor fuel dealer in the state from 11743
any source during the preceding calendar month, other than motor 11744
fuel included in division (A)(1) of this section, together with 11745
a statement showing the date of receipt of such motor fuel; the 11746
name of the person from whom purchased or received; the date of 11747
receipt of each shipment of motor fuel; the point of origin and 11748
the point of destination of each shipment; the quantity of each 11749
of said purchases or shipments; the name of the carrier; the 11750
number of gallons contained in each car if shipped by rail; the 11751
point of origin, destination, and shipper if shipped by pipe 11752
line; or the name and owner of the boat, barge, or vessel if 11753
shipped by water; 11754

(3) An itemized statement of the number of gallons of 11755
motor fuel which such motor fuel dealer has during the preceding 11756

calendar month:	11757
(a) For motor fuel other than gasoline sold for use other than for operating motor vehicles on the public highways or on waters within the boundaries of this state;	11758 11759 11760
(b) Exported from this state to any other state or foreign country as provided in division (A) (4) of section 5735.05 of the Revised Code;	11761 11762 11763
(c) Sold to the United States government or any of its agencies;	11764 11765
(d) Sold for delivery to motor fuel dealers;	11766
(e) Sold exclusively for use in the operation of aircraft;	11767
(4) Such other information incidental to the enforcement of the motor fuel laws of the state as the commissioner requires.	11768 11769 11770
(B) The report shall show the tax due, computed as follows:	11771 11772
(1) The following deductions shall be made from the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month:	11773 11774 11775
(a) The total number of gallons of motor fuel received by the motor fuel dealer within the state and sold or otherwise disposed of during the preceding calendar month as set forth in section 5735.05 of the Revised Code;	11776 11777 11778 11779
(b) The total number of gallons received during the preceding calendar month and sold or otherwise disposed of to another licensed motor fuel dealer pursuant to section 5735.05 of the Revised Code;	11780 11781 11782 11783

(c) To cover the costs of the motor fuel dealer in 11784
compiling the report, and evaporation, shrinkage, or other 11785
unaccounted-for losses: 11786

(i) If the report is timely filed and the tax is timely 11787
paid, three per cent of the total number of gallons of motor 11788
fuel received by the motor fuel dealer within the state during 11789
the preceding calendar month less the total number of gallons 11790
deducted under divisions (B) (1) (a) and (b) of this section, less 11791
one per cent of the total number of gallons of motor fuel that 11792
were sold to a retail dealer during the preceding calendar 11793
month; 11794

(ii) If the report required by division (A) of this 11795
section is not timely filed and the tax is not timely paid, no 11796
deduction shall be allowed; 11797

(iii) If the report is incomplete, no deduction shall be 11798
allowed for any fuel on which the tax is not timely reported and 11799
paid; 11800

(2) The number of gallons remaining after the deductions 11801
have been made shall be multiplied ~~separately by each of the~~ 11802
~~following amounts:~~ 11803

~~(a) The cents per gallon rate;~~ 11804

~~(b) Two cents.~~ 11805

The sum of the products prescribed by section 5735.05 of 11806
the Revised Code. The product obtained in divisions (B) (2) (a) 11807
and (b) of this section shall be the amount of motor fuel tax 11808
for the preceding calendar month. 11809

(C) The report shall be filed together with payment of the 11810
tax shown on the report to be due. The commissioner may extend 11811

the time for filing reports and may remit all or part of 11812
penalties which may become due under sections 5735.01 to 5735.99 11813
of the Revised Code. For purposes of this section and sections 11814
5735.062 and 5735.12 of the Revised Code, a report required to 11815
be filed under this section and payment of the tax due under 11816
this chapter are considered filed when received by the tax 11817
commissioner. 11818

(D) The tax commissioner may require a motor fuel dealer 11819
to file a report for a period other than one month. Such a 11820
report, together with payment of the tax, shall be filed not 11821
later than thirty days after the last day of the prescribed 11822
reporting period. 11823

(E) No person required by this section to file a tax 11824
report shall file a false or fraudulent tax report or supporting 11825
schedule. 11826

Sec. 5739.01. As used in this chapter: 11827

(A) "Person" includes individuals, receivers, assignees, 11828
trustees in bankruptcy, estates, firms, partnerships, 11829
associations, joint-stock companies, joint ventures, clubs, 11830
societies, corporations, the state and its political 11831
subdivisions, and combinations of individuals of any form. 11832

(B) "Sale" and "selling" include all of the following 11833
transactions for a consideration in any manner, whether 11834
absolutely or conditionally, whether for a price or rental, in 11835
money or by exchange, and by any means whatsoever: 11836

(1) All transactions by which title or possession, or 11837
both, of tangible personal property, is or is to be transferred, 11838
or a license to use or consume tangible personal property is or 11839
is to be granted; 11840

(2) All transactions by which lodging by a hotel is or is	11841
to be furnished to transient guests;	11842
(3) All transactions by which:	11843
(a) An item of tangible personal property is or is to be	11844
repaired, except property, the purchase of which would not be	11845
subject to the tax imposed by section 5739.02 of the Revised	11846
Code;	11847
(b) An item of tangible personal property is or is to be	11848
installed, except property, the purchase of which would not be	11849
subject to the tax imposed by section 5739.02 of the Revised	11850
Code or property that is or is to be incorporated into and will	11851
become a part of a production, transmission, transportation, or	11852
distribution system for the delivery of a public utility	11853
service;	11854
(c) The service of washing, cleaning, waxing, polishing,	11855
or painting a motor vehicle is or is to be furnished;	11856
(d) Until August 1, 2003, industrial laundry cleaning	11857
services are or are to be provided and, on and after August 1,	11858
2003, laundry <u>Laundry</u> and dry cleaning services are or are to be	11859
provided;	11860
(e) Automatic data processing, computer services, or	11861
electronic information services are or are to be provided for	11862
use in business when the true object of the transaction is the	11863
receipt by the consumer of automatic data processing, computer	11864
services, or electronic information services rather than the	11865
receipt of personal or professional services to which automatic	11866
data processing, computer services, or electronic information	11867
services are incidental or supplemental. Notwithstanding any	11868
other provision of this chapter, such transactions that occur	11869

between members of an affiliated group are not sales. An 11870
"affiliated group" means two or more persons related in such a 11871
way that one person owns or controls the business operation of 11872
another member of the group. In the case of corporations with 11873
stock, one corporation owns or controls another if it owns more 11874
than fifty per cent of the other corporation's common stock with 11875
voting rights. 11876

(f) Telecommunications service, including prepaid calling 11877
service, prepaid wireless calling service, or ancillary service, 11878
is or is to be provided, but not including coin-operated 11879
telephone service; 11880

(g) Landscaping and lawn care service is or is to be 11881
provided; 11882

(h) Private investigation and security service is or is to 11883
be provided; 11884

(i) Information services or tangible personal property is 11885
provided or ordered by means of a nine hundred telephone call; 11886

(j) Building maintenance and janitorial service is or is 11887
to be provided; 11888

(k) Employment service is or is to be provided; 11889

(l) Employment placement service is or is to be provided; 11890

(m) Exterminating service is or is to be provided; 11891

(n) Physical fitness facility service is or is to be 11892
provided; 11893

(o) Recreation and sports club service is or is to be 11894
provided; 11895

(p) ~~On and after August 1, 2003, satellite~~ Satellite 11896

broadcasting service is or is to be provided; 11897

(q) ~~On and after August 1, 2003, personal~~ Personal care 11898
service is or is to be provided to an individual. As used in 11899
this division, "personal care service" includes skin care, the 11900
application of cosmetics, manicuring, pedicuring, hair removal, 11901
tattooing, body piercing, tanning, massage, and other similar 11902
services. "Personal care service" does not include a service 11903
provided by or on the order of a licensed physician or licensed 11904
chiropractor, or the cutting, coloring, or styling of an 11905
individual's hair. 11906

(r) ~~On and after August 1, 2003, the~~ The transportation of 11907
persons by motor vehicle or aircraft is or is to be provided, 11908
when the transportation is entirely within this state, except 11909
for transportation provided by an ambulance service, by a 11910
transit bus, as defined in section 5735.01 of the Revised Code, 11911
and transportation provided by a citizen of the United States 11912
holding a certificate of public convenience and necessity issued 11913
under 49 U.S.C. 41102; 11914

(s) ~~On and after August 1, 2003, motor~~ Motor vehicle 11915
towing service is or is to be provided. As used in this 11916
division, "motor vehicle towing service" means the towing or 11917
conveyance of a wrecked, disabled, or illegally parked motor 11918
vehicle. 11919

(t) ~~On and after August 1, 2003, snow~~ Snow removal service 11920
is or is to be provided. As used in this division, "snow removal 11921
service" means the removal of snow by any mechanized means, but 11922
does not include the providing of such service by a person that 11923
has less than five thousand dollars in sales of such service 11924
during the calendar year. 11925

(u) Electronic publishing service is or is to be provided 11926
to a consumer for use in business, except that such transactions 11927
occurring between members of an affiliated group, as defined in 11928
division (B) (3) (e) of this section, are not sales. 11929

(4) All transactions by which printed, imprinted, 11930
overprinted, lithographic, multilithic, blueprinted, 11931
photostatic, or other productions or reproductions of written or 11932
graphic matter are or are to be furnished or transferred; 11933

(5) The production or fabrication of tangible personal 11934
property for a consideration for consumers who furnish either 11935
directly or indirectly the materials used in the production of 11936
fabrication work; and include the furnishing, preparing, or 11937
serving for a consideration of any tangible personal property 11938
consumed on the premises of the person furnishing, preparing, or 11939
serving such tangible personal property. Except as provided in 11940
section 5739.03 of the Revised Code, a construction contract 11941
pursuant to which tangible personal property is or is to be 11942
incorporated into a structure or improvement on and becoming a 11943
part of real property is not a sale of such tangible personal 11944
property. The construction contractor is the consumer of such 11945
tangible personal property, provided that the sale and 11946
installation of carpeting, the sale and installation of 11947
agricultural land tile, the sale and erection or installation of 11948
portable grain bins, or the provision of landscaping and lawn 11949
care service and the transfer of property as part of such 11950
service is never a construction contract. 11951

As used in division (B) (5) of this section: 11952

(a) "Agricultural land tile" means fired clay or concrete 11953
tile, or flexible or rigid perforated plastic pipe or tubing, 11954
incorporated or to be incorporated into a subsurface drainage 11955

system appurtenant to land used or to be used primarily in 11956
production by farming, agriculture, horticulture, or 11957
floriculture. The term does not include such materials when they 11958
are or are to be incorporated into a drainage system appurtenant 11959
to a building or structure even if the building or structure is 11960
used or to be used in such production. 11961

(b) "Portable grain bin" means a structure that is used or 11962
to be used by a person engaged in farming or agriculture to 11963
shelter the person's grain and that is designed to be 11964
disassembled without significant damage to its component parts. 11965

(6) All transactions in which all of the shares of stock 11966
of a closely held corporation are transferred, or an ownership 11967
interest in a pass-through entity, as defined in section 5733.04 11968
of the Revised Code, is transferred, if the corporation or pass- 11969
through entity is not engaging in business and its entire assets 11970
consist of boats, planes, motor vehicles, or other tangible 11971
personal property operated primarily for the use and enjoyment 11972
of the shareholders or owners; 11973

(7) All transactions in which a warranty, maintenance or 11974
service contract, or similar agreement by which the vendor of 11975
the warranty, contract, or agreement agrees to repair or 11976
maintain the tangible personal property of the consumer is or is 11977
to be provided; 11978

(8) The transfer of copyrighted motion picture films used 11979
solely for advertising purposes, except that the transfer of 11980
such films for exhibition purposes is not a sale; 11981

(9) ~~On and after August 1, 2003, all~~ All transactions by 11982
which tangible personal property is or is to be stored, except 11983
such property that the consumer of the storage holds for sale in 11984

the regular course of business; 11985

(10) All transactions in which "guaranteed auto 11986
protection" is provided whereby a person promises to pay to the 11987
consumer the difference between the amount the consumer receives 11988
from motor vehicle insurance and the amount the consumer owes to 11989
a person holding title to or a lien on the consumer's motor 11990
vehicle in the event the consumer's motor vehicle suffers a 11991
total loss under the terms of the motor vehicle insurance policy 11992
or is stolen and not recovered, if the protection and its price 11993
are included in the purchase or lease agreement; 11994

(11) (a) Except as provided in division (B) (11) (b) of this 11995
section, ~~on and after October 1, 2009,~~ all transactions by which 11996
health care services are paid for, reimbursed, provided, 11997
delivered, arranged for, or otherwise made available by a 11998
medicaid health insuring corporation pursuant to the 11999
corporation's contract with the state. 12000

(b) If the centers for medicare and medicaid services of 12001
the United States department of health and human services 12002
determines that the taxation of transactions described in 12003
division (B) (11) (a) of this section constitutes an impermissible 12004
health care-related tax under the "Social Security Act," section 12005
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 12006
the medicaid director shall notify the tax commissioner of that 12007
determination. Beginning with the first day of the month 12008
following that notification, the transactions described in 12009
division (B) (11) (a) of this section are not sales for the 12010
purposes of this chapter or Chapter 5741. of the Revised Code. 12011
The tax commissioner shall order that the collection of taxes 12012
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 12013
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 12014

for transactions occurring on or after that date. 12015

(12) All transactions by which a specified digital product 12016
is provided for permanent use or less than permanent use, 12017
regardless of whether continued payment is required. 12018

Except as provided in this section, "sale" and "selling" 12019
do not include transfers of interest in leased property where 12020
the original lessee and the terms of the original lease 12021
agreement remain unchanged, or professional, insurance, or 12022
personal service transactions that involve the transfer of 12023
tangible personal property as an inconsequential element, for 12024
which no separate charges are made. 12025

(C) "Vendor" means the person providing the service or by 12026
whom the transfer effected or license given by a sale is or is 12027
to be made or given and, for sales described in division (B)(3) 12028
(i) of this section, the telecommunications service vendor that 12029
provides the nine hundred telephone service; if two or more 12030
persons are engaged in business at the same place of business 12031
under a single trade name in which all collections on account of 12032
sales by each are made, such persons shall constitute a single 12033
vendor. 12034

Physicians, dentists, hospitals, and veterinarians who are 12035
engaged in selling tangible personal property as received from 12036
others, such as eyeglasses, mouthwashes, dentifrices, or similar 12037
articles, are vendors. Veterinarians who are engaged in 12038
transferring to others for a consideration drugs, the dispensing 12039
of which does not require an order of a licensed veterinarian or 12040
physician under federal law, are vendors. 12041

(D) (1) "Consumer" means the person for whom the service is 12042
provided, to whom the transfer effected or license given by a 12043

sale is or is to be made or given, to whom the service described 12044
in division (B) (3) (f) or (i) of this section is charged, or to 12045
whom the admission is granted. 12046

(2) Physicians, dentists, hospitals, and blood banks 12047
operated by nonprofit institutions and persons licensed to 12048
practice veterinary medicine, surgery, and dentistry are 12049
consumers of all tangible personal property and services 12050
purchased by them in connection with the practice of medicine, 12051
dentistry, the rendition of hospital or blood bank service, or 12052
the practice of veterinary medicine, surgery, and dentistry. In 12053
addition to being consumers of drugs administered by them or by 12054
their assistants according to their direction, veterinarians 12055
also are consumers of drugs that under federal law may be 12056
dispensed only by or upon the order of a licensed veterinarian 12057
or physician, when transferred by them to others for a 12058
consideration to provide treatment to animals as directed by the 12059
veterinarian. 12060

(3) A person who performs a facility management, or 12061
similar service contract for a contractee is a consumer of all 12062
tangible personal property and services purchased for use in 12063
connection with the performance of such contract, regardless of 12064
whether title to any such property vests in the contractee. The 12065
purchase of such property and services is not subject to the 12066
exception for resale under division (E) of this section. 12067

(4) (a) In the case of a person who purchases printed 12068
matter for the purpose of distributing it or having it 12069
distributed to the public or to a designated segment of the 12070
public, free of charge, that person is the consumer of that 12071
printed matter, and the purchase of that printed matter for that 12072
purpose is a sale. 12073

(b) In the case of a person who produces, rather than 12074
purchases, printed matter for the purpose of distributing it or 12075
having it distributed to the public or to a designated segment 12076
of the public, free of charge, that person is the consumer of 12077
all tangible personal property and services purchased for use or 12078
consumption in the production of that printed matter. That 12079
person is not entitled to claim exemption under division (B) (42) 12080
(f) of section 5739.02 of the Revised Code for any material 12081
incorporated into the printed matter or any equipment, supplies, 12082
or services primarily used to produce the printed matter. 12083

(c) The distribution of printed matter to the public or to 12084
a designated segment of the public, free of charge, is not a 12085
sale to the members of the public to whom the printed matter is 12086
distributed or to any persons who purchase space in the printed 12087
matter for advertising or other purposes. 12088

(5) A person who makes sales of any of the services listed 12089
in division (B) (3) of this section is the consumer of any 12090
tangible personal property used in performing the service. The 12091
purchase of that property is not subject to the resale exception 12092
under division (E) of this section. 12093

(6) A person who engages in highway transportation for 12094
hire is the consumer of all packaging materials purchased by 12095
that person and used in performing the service, except for 12096
packaging materials sold by such person in a transaction 12097
separate from the service. 12098

(7) In the case of a transaction for health care services 12099
under division (B) (11) of this section, a medicaid health 12100
insuring corporation is the consumer of such services. The 12101
purchase of such services by a medicaid health insuring 12102
corporation is not subject to the exception for resale under 12103

division (E) of this section or to the exemptions provided under 12104
divisions (B) (12), (18), (19), and (22) of section 5739.02 of 12105
the Revised Code. 12106

(E) "Retail sale" and "sales at retail" include all sales, 12107
except those in which the purpose of the consumer is to resell 12108
the thing transferred or benefit of the service provided, by a 12109
person engaging in business, in the form in which the same is, 12110
or is to be, received by the person. 12111

(F) "Business" includes any activity engaged in by any 12112
person with the object of gain, benefit, or advantage, either 12113
direct or indirect. "Business" does not include the activity of 12114
a person in managing and investing the person's own funds. 12115

(G) "Engaging in business" means commencing, conducting, 12116
or continuing in business, and liquidating a business when the 12117
liquidator thereof holds itself out to the public as conducting 12118
such business. Making a casual sale is not engaging in business. 12119

(H) (1) (a) "Price," except as provided in divisions (H) (2), 12120
(3), and (4) of this section, means the total amount of 12121
consideration, including cash, credit, property, and services, 12122
for which tangible personal property or services are sold, 12123
leased, or rented, valued in money, whether received in money or 12124
otherwise, without any deduction for any of the following: 12125

(i) The vendor's cost of the property sold; 12126

(ii) The cost of materials used, labor or service costs, 12127
interest, losses, all costs of transportation to the vendor, all 12128
taxes imposed on the vendor, including the tax imposed under 12129
Chapter 5751. of the Revised Code, and any other expense of the 12130
vendor; 12131

(iii) Charges by the vendor for any services necessary to 12132

complete the sale; 12133

(iv) ~~On and after August 1, 2003, delivery~~ Delivery 12134
charges. As used in this division, "delivery charges" means 12135
charges by the vendor for preparation and delivery to a location 12136
designated by the consumer of tangible personal property or a 12137
service, including transportation, shipping, postage, handling, 12138
crating, and packing. 12139

(v) Installation charges; 12140

(vi) Credit for any trade-in. 12141

(b) "Price" includes consideration received by the vendor 12142
from a third party, if the vendor actually receives the 12143
consideration from a party other than the consumer, and the 12144
consideration is directly related to a price reduction or 12145
discount on the sale; the vendor has an obligation to pass the 12146
price reduction or discount through to the consumer; the amount 12147
of the consideration attributable to the sale is fixed and 12148
determinable by the vendor at the time of the sale of the item 12149
to the consumer; and one of the following criteria is met: 12150

(i) The consumer presents a coupon, certificate, or other 12151
document to the vendor to claim a price reduction or discount 12152
where the coupon, certificate, or document is authorized, 12153
distributed, or granted by a third party with the understanding 12154
that the third party will reimburse any vendor to whom the 12155
coupon, certificate, or document is presented; 12156

(ii) The consumer identifies the consumer's self to the 12157
seller as a member of a group or organization entitled to a 12158
price reduction or discount. A preferred customer card that is 12159
available to any patron does not constitute membership in such a 12160
group or organization. 12161

(iii) The price reduction or discount is identified as a 12162
third party price reduction or discount on the invoice received 12163
by the consumer, or on a coupon, certificate, or other document 12164
presented by the consumer. 12165

(c) "Price" does not include any of the following: 12166

(i) Discounts, including cash, term, or coupons that are 12167
not reimbursed by a third party that are allowed by a vendor and 12168
taken by a consumer on a sale; 12169

(ii) Interest, financing, and carrying charges from credit 12170
extended on the sale of tangible personal property or services, 12171
if the amount is separately stated on the invoice, bill of sale, 12172
or similar document given to the purchaser; 12173

(iii) Any taxes legally imposed directly on the consumer 12174
that are separately stated on the invoice, bill of sale, or 12175
similar document given to the consumer. For the purpose of this 12176
division, the tax imposed under Chapter 5751. of the Revised 12177
Code is not a tax directly on the consumer, even if the tax or a 12178
portion thereof is separately stated. 12179

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 12180
this section, any discount allowed by an automobile manufacturer 12181
to its employee, or to the employee of a supplier, on the 12182
purchase of a new motor vehicle from a new motor vehicle dealer 12183
in this state. 12184

(v) The dollar value of a gift card that is not sold by a 12185
vendor or purchased by a consumer and that is redeemed by the 12186
consumer in purchasing tangible personal property or services if 12187
the vendor is not reimbursed and does not receive compensation 12188
from a third party to cover all or part of the gift card value. 12189
For the purposes of this division, a gift card is not sold by a 12190

vendor or purchased by a consumer if it is distributed pursuant 12191
to an awards, loyalty, or promotional program. Past and present 12192
purchases of tangible personal property or services by the 12193
consumer shall not be treated as consideration exchanged for a 12194
gift card. 12195

(2) In the case of a sale of any new motor vehicle by a 12196
new motor vehicle dealer, as defined in section 4517.01 of the 12197
Revised Code, in which another motor vehicle is accepted by the 12198
dealer as part of the consideration received, "price" has the 12199
same meaning as in division (H) (1) of this section, reduced by 12200
the credit afforded the consumer by the dealer for the motor 12201
vehicle received in trade. 12202

(3) In the case of a sale of any watercraft or outboard 12203
motor by a watercraft dealer licensed in accordance with section 12204
1547.543 of the Revised Code, in which another watercraft, 12205
watercraft and trailer, or outboard motor is accepted by the 12206
dealer as part of the consideration received, "price" has the 12207
same meaning as in division (H) (1) of this section, reduced by 12208
the credit afforded the consumer by the dealer for the 12209
watercraft, watercraft and trailer, or outboard motor received 12210
in trade. As used in this division, "watercraft" includes an 12211
outdrive unit attached to the watercraft. 12212

(4) In the case of transactions for health care services 12213
under division (B) (11) of this section, "price" means the amount 12214
of managed care premiums received each month by a medicaid 12215
health insuring corporation. 12216

(I) "Receipts" means the total amount of the prices of the 12217
sales of vendors, provided that the dollar value of gift cards 12218
distributed pursuant to an awards, loyalty, or promotional 12219
program, and cash discounts allowed and taken on sales at the 12220

time they are consummated are not included, minus any amount 12221
deducted as a bad debt pursuant to section 5739.121 of the 12222
Revised Code. "Receipts" does not include the sale price of 12223
property returned or services rejected by consumers when the 12224
full sale price and tax are refunded either in cash or by 12225
credit. 12226

(J) "Place of business" means any location at which a 12227
person engages in business. 12228

(K) "Premises" includes any real property or portion 12229
thereof upon which any person engages in selling tangible 12230
personal property at retail or making retail sales and also 12231
includes any real property or portion thereof designated for, or 12232
devoted to, use in conjunction with the business engaged in by 12233
such person. 12234

(L) "Casual sale" means a sale of an item of tangible 12235
personal property that was obtained by the person making the 12236
sale, through purchase or otherwise, for the person's own use 12237
and was previously subject to any state's taxing jurisdiction on 12238
its sale or use, and includes such items acquired for the 12239
seller's use that are sold by an auctioneer employed directly by 12240
the person for such purpose, provided the location of such sales 12241
is not the auctioneer's permanent place of business. As used in 12242
this division, "permanent place of business" includes any 12243
location where such auctioneer has conducted more than two 12244
auctions during the year. 12245

(M) "Hotel" means every establishment kept, used, 12246
maintained, advertised, or held out to the public to be a place 12247
where sleeping accommodations are offered to guests, in which 12248
five or more rooms are used for the accommodation of such 12249
guests, whether the rooms are in one or several structures, 12250

except as otherwise provided in ~~division (G) of section 5739.09~~ 12251
5739.091 of the Revised Code. 12252

(N) "Transient guests" means persons occupying a room or 12253
rooms for sleeping accommodations for less than thirty 12254
consecutive days. 12255

(O) "Making retail sales" means the effecting of 12256
transactions wherein one party is obligated to pay the price and 12257
the other party is obligated to provide a service or to transfer 12258
title to or possession of the item sold. "Making retail sales" 12259
does not include the preliminary acts of promoting or soliciting 12260
the retail sales, other than the distribution of printed matter 12261
which displays or describes and prices the item offered for 12262
sale, nor does it include delivery of a predetermined quantity 12263
of tangible personal property or transportation of property or 12264
personnel to or from a place where a service is performed. 12265

(P) "Used directly in the rendition of a public utility 12266
service" means that property that is to be incorporated into and 12267
will become a part of the consumer's production, transmission, 12268
transportation, or distribution system and that retains its 12269
classification as tangible personal property after such 12270
incorporation; fuel or power used in the production, 12271
transmission, transportation, or distribution system; and 12272
tangible personal property used in the repair and maintenance of 12273
the production, transmission, transportation, or distribution 12274
system, including only such motor vehicles as are specially 12275
designed and equipped for such use. Tangible personal property 12276
and services used primarily in providing highway transportation 12277
for hire are not used directly in the rendition of a public 12278
utility service. In this definition, "public utility" includes a 12279
citizen of the United States holding, and required to hold, a 12280

certificate of public convenience and necessity issued under 49 12281
U.S.C. 41102. 12282

(Q) "Refining" means removing or separating a desirable 12283
product from raw or contaminated materials by distillation or 12284
physical, mechanical, or chemical processes. 12285

(R) "Assembly" and "assembling" mean attaching or fitting 12286
together parts to form a product, but do not include packaging a 12287
product. 12288

(S) "Manufacturing operation" means a process in which 12289
materials are changed, converted, or transformed into a 12290
different state or form from which they previously existed and 12291
includes refining materials, assembling parts, and preparing raw 12292
materials and parts by mixing, measuring, blending, or otherwise 12293
committing such materials or parts to the manufacturing process. 12294
"Manufacturing operation" does not include packaging. 12295

(T) "Fiscal officer" means, with respect to a regional 12296
transit authority, the secretary-treasurer thereof, and with 12297
respect to a county that is a transit authority, the fiscal 12298
officer of the county transit board if one is appointed pursuant 12299
to section 306.03 of the Revised Code or the county auditor if 12300
the board of county commissioners operates the county transit 12301
system. 12302

(U) "Transit authority" means a regional transit authority 12303
created pursuant to section 306.31 of the Revised Code or a 12304
county in which a county transit system is created pursuant to 12305
section 306.01 of the Revised Code. For the purposes of this 12306
chapter, a transit authority must extend to at least the entire 12307
area of a single county. A transit authority that includes 12308
territory in more than one county must include all the area of 12309

the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "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 that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B) (3) of this section for consideration.

(Y) (1) (a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing

access to computer equipment by means of telecommunications 12339
equipment for the purpose of either of the following: 12340

(i) Examining or acquiring data stored in or accessible to 12341
the computer equipment; 12342

(ii) Placing data into the computer equipment to be 12343
retrieved by designated recipients with access to the computer 12344
equipment. 12345

~~For transactions occurring on or after the effective date~~ 12346
~~of the amendment of this section by H.B. 157 of the 127th~~ 12347
~~general assembly, December 21, 2007, "electronic Electronic~~ 12348
information services" does not include electronic publishing as 12349
defined in division (LLL) of this section. 12350

(d) "Automatic data processing, computer services, or 12351
electronic information services" shall not include personal or 12352
professional services. 12353

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 12354
section, "personal and professional services" means all services 12355
other than automatic data processing, computer services, or 12356
electronic information services, including but not limited to: 12357

(a) Accounting and legal services such as advice on tax 12358
matters, asset management, budgetary matters, quality control, 12359
information security, and auditing and any other situation where 12360
the service provider receives data or information and studies, 12361
alters, analyzes, interprets, or adjusts such material; 12362

(b) Analyzing business policies and procedures; 12363

(c) Identifying management information needs; 12364

(d) Feasibility studies, including economic and technical 12365
analysis of existing or potential computer hardware or software 12366

needs and alternatives;	12367
(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;	12368 12369 12370 12371 12372
(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;	12373 12374 12375
(g) Testing of business procedures;	12376
(h) Training personnel in business procedure applications;	12377
(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;	12378 12379 12380 12381 12382 12383 12384
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	12385 12386
(k) Providing digital advertising services.	12387
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	12388 12389
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	12390 12391 12392
(1) The holder of a permit or certificate issued by this	12393

state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is

the processed data or information;	12424
(b) Installation or maintenance of wiring or equipment on a customer's premises;	12425 12426
(c) Tangible personal property;	12427
(d) Advertising, including directory advertising;	12428
(e) Billing and collection services provided to third parties;	12429 12430
(f) Internet access service;	12431
(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6), and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;	12432 12433 12434 12435 12436 12437 12438 12439
(h) Ancillary service;	12440
(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.	12441 12442
(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:	12443 12444 12445 12446 12447 12448
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video	12449 12450

conference call, including providing a telephone number. 12451

"Conference bridging service" does not include 12452

telecommunications services used to reach the conference bridge. 12453

(b) "Detailed telecommunications billing service" means an 12454

ancillary service of separately stating information pertaining 12455

to individual calls on a customer's billing statement. 12456

(c) "Directory assistance" means an ancillary service of 12457

providing telephone number or address information. 12458

(d) "Vertical service" means an ancillary service that is 12459

offered in connection with one or more telecommunications 12460

services, which offers advanced calling features that allow 12461

customers to identify callers and manage multiple calls and call 12462

connections, including conference bridging service. 12463

(e) "Voice mail service" means an ancillary service that 12464

enables the customer to store, send, or receive recorded 12465

messages. "Voice mail service" does not include any vertical 12466

services that the customer may be required to have in order to 12467

utilize the voice mail service. 12468

(3) "900 service" means an inbound toll telecommunications 12469

service purchased by a subscriber that allows the subscriber's 12470

customers to call in to the subscriber's prerecorded 12471

announcement or live service, and which is typically marketed 12472

under the name "900 service" and any subsequent numbers 12473

designated by the federal communications commission. "900 12474

service" does not include the charge for collection services 12475

provided by the seller of the telecommunications service to the 12476

subscriber, or services or products sold by the subscriber to 12477

the subscriber's customer. 12478

(4) "Prepaid calling service" means the right to access 12479

exclusively telecommunications services, which must be paid for 12480
in advance and which enables the origination of calls using an 12481
access number or authorization code, whether manually or 12482
electronically dialed, and that is sold in predetermined units 12483
or dollars of which the number declines with use in a known 12484
amount. 12485

(5) "Prepaid wireless calling service" means a 12486
telecommunications service that provides the right to utilize 12487
mobile telecommunications service as well as other non- 12488
telecommunications services, including the download of digital 12489
products delivered electronically, and content and ancillary 12490
services, that must be paid for in advance and that is sold in 12491
predetermined units or dollars of which the number declines with 12492
use in a known amount. 12493

(6) "Value-added non-voice data service" means a 12494
telecommunications service in which computer processing 12495
applications are used to act on the form, content, code, or 12496
protocol of the information or data primarily for a purpose 12497
other than transmission, conveyance, or routing. 12498

(7) "Coin-operated telephone service" means a 12499
telecommunications service paid for by inserting money into a 12500
telephone accepting direct deposits of money to operate. 12501

(8) "Customer" has the same meaning as in section 5739.034 12502
of the Revised Code. 12503

(BB) "Laundry and dry cleaning services" means removing 12504
soil or dirt from towels, linens, articles of clothing, or other 12505
fabric items that belong to others and supplying towels, linens, 12506
articles of clothing, or other fabric items. "Laundry and dry 12507
cleaning services" does not include the provision of self- 12508

service facilities for use by consumers to remove soil or dirt 12509
from towels, linens, articles of clothing, or other fabric 12510
items. 12511

(CC) "Magazines distributed as controlled circulation 12512
publications" means magazines containing at least twenty-four 12513
pages, at least twenty-five per cent editorial content, issued 12514
at regular intervals four or more times a year, and circulated 12515
without charge to the recipient, provided that such magazines 12516
are not owned or controlled by individuals or business concerns 12517
which conduct such publications as an auxiliary to, and 12518
essentially for the advancement of the main business or calling 12519
of, those who own or control them. 12520

(DD) "Landscaping and lawn care service" means the 12521
services of planting, seeding, sodding, removing, cutting, 12522
trimming, pruning, mulching, aerating, applying chemicals, 12523
watering, fertilizing, and providing similar services to 12524
establish, promote, or control the growth of trees, shrubs, 12525
flowers, grass, ground cover, and other flora, or otherwise 12526
maintaining a lawn or landscape grown or maintained by the owner 12527
for ornamentation or other nonagricultural purpose. However, 12528
"landscaping and lawn care service" does not include the 12529
providing of such services by a person who has less than five 12530
thousand dollars in sales of such services during the calendar 12531
year. 12532

(EE) "Private investigation and security service" means 12533
the performance of any activity for which the provider of such 12534
service is required to be licensed pursuant to Chapter 4749. of 12535
the Revised Code, or would be required to be so licensed in 12536
performing such services in this state, and also includes the 12537
services of conducting polygraph examinations and of monitoring 12538

or overseeing the activities on or in, or the condition of, the 12539
consumer's home, business, or other facility by means of 12540
electronic or similar monitoring devices. "Private investigation 12541
and security service" does not include special duty services 12542
provided by off-duty police officers, deputy sheriffs, and other 12543
peace officers regularly employed by the state or a political 12544
subdivision. 12545

(FF) "Information services" means providing conversation, 12546
giving consultation or advice, playing or making a voice or 12547
other recording, making or keeping a record of the number of 12548
callers, and any other service provided to a consumer by means 12549
of a nine hundred telephone call, except when the nine hundred 12550
telephone call is the means by which the consumer makes a 12551
contribution to a recognized charity. 12552

(GG) "Research and development" means designing, creating, 12553
or formulating new or enhanced products, equipment, or 12554
manufacturing processes, and also means conducting scientific or 12555
technological inquiry and experimentation in the physical 12556
sciences with the goal of increasing scientific knowledge which 12557
may reveal the bases for new or enhanced products, equipment, or 12558
manufacturing processes. 12559

(HH) "Qualified research and development equipment" means 12560
capitalized tangible personal property, and leased personal 12561
property that would be capitalized if purchased, used by a 12562
person primarily to perform research and development. Tangible 12563
personal property primarily used in testing, as defined in 12564
division (A) (4) of section 5739.011 of the Revised Code, or used 12565
for recording or storing test results, is not qualified research 12566
and development equipment unless such property is primarily used 12567
by the consumer in testing the product, equipment, or 12568

manufacturing process being created, designed, or formulated by 12569
the consumer in the research and development activity or in 12570
recording or storing such test results. 12571

(II) "Building maintenance and janitorial service" means 12572
cleaning the interior or exterior of a building and any tangible 12573
personal property located therein or thereon, including any 12574
services incidental to such cleaning for which no separate 12575
charge is made. However, "building maintenance and janitorial 12576
service" does not include the providing of such service by a 12577
person who has less than five thousand dollars in sales of such 12578
service during the calendar year. As used in this division, 12579
"cleaning" does not include sanitation services necessary for an 12580
establishment described in 21 U.S.C. 608 to comply with rules 12581
and regulations adopted pursuant to that section. 12582

(JJ) "Employment service" means providing or supplying 12583
personnel, on a temporary or long-term basis, to perform work or 12584
labor under the supervision or control of another, when the 12585
personnel so provided or supplied receive their wages, salary, 12586
or other compensation from the provider or supplier of the 12587
employment service or from a third party that provided or 12588
supplied the personnel to the provider or supplier. "Employment 12589
service" does not include: 12590

(1) Acting as a contractor or subcontractor, where the 12591
personnel performing the work are not under the direct control 12592
of the purchaser. 12593

(2) Medical and health care services. 12594

(3) Supplying personnel to a purchaser pursuant to a 12595
contract of at least one year between the service provider and 12596
the purchaser that specifies that each employee covered under 12597

the contract is assigned to the purchaser on a permanent basis. 12598

(4) Transactions between members of an affiliated group, 12599
as defined in division (B) (3) (e) of this section. 12600

(5) Transactions where the personnel so provided or 12601
supplied by a provider or supplier to a purchaser of an 12602
employment service are then provided or supplied by that 12603
purchaser to a third party as an employment service, except 12604
"employment service" does include the transaction between that 12605
purchaser and the third party. 12606

(KK) "Employment placement service" means locating or 12607
finding employment for a person or finding or locating an 12608
employee to fill an available position. 12609

(LL) "Exterminating service" means eradicating or 12610
attempting to eradicate vermin infestations from a building or 12611
structure, or the area surrounding a building or structure, and 12612
includes activities to inspect, detect, or prevent vermin 12613
infestation of a building or structure. 12614

(MM) "Physical fitness facility service" means all 12615
transactions by which a membership is granted, maintained, or 12616
renewed, including initiation fees, membership dues, renewal 12617
fees, monthly minimum fees, and other similar fees and dues, by 12618
a physical fitness facility such as an athletic club, health 12619
spa, or gymnasium, which entitles the member to use the facility 12620
for physical exercise. 12621

(NN) "Recreation and sports club service" means all 12622
transactions by which a membership is granted, maintained, or 12623
renewed, including initiation fees, membership dues, renewal 12624
fees, monthly minimum fees, and other similar fees and dues, by 12625
a recreation and sports club, which entitles the member to use 12626

the facilities of the organization. "Recreation and sports club" 12627
means an organization that has ownership of, or controls or 12628
leases on a continuing, long-term basis, the facilities used by 12629
its members and includes an aviation club, gun or shooting club, 12630
yacht club, card club, swimming club, tennis club, golf club, 12631
country club, riding club, amateur sports club, or similar 12632
organization. 12633

(OO) "Livestock" means farm animals commonly raised for 12634
food, food production, or other agricultural purposes, 12635
including, but not limited to, cattle, sheep, goats, swine, 12636
poultry, and captive deer. "Livestock" does not include 12637
invertebrates, amphibians, reptiles, domestic pets, animals for 12638
use in laboratories or for exhibition, or other animals not 12639
commonly raised for food or food production. 12640

(PP) "Livestock structure" means a building or structure 12641
used exclusively for the housing, raising, feeding, or 12642
sheltering of livestock, and includes feed storage or handling 12643
structures and structures for livestock waste handling. 12644

(QQ) "Horticulture" means the growing, cultivation, and 12645
production of flowers, fruits, herbs, vegetables, sod, 12646
mushrooms, and nursery stock. As used in this division, "nursery 12647
stock" has the same meaning as in section 927.51 of the Revised 12648
Code. 12649

(RR) "Horticulture structure" means a building or 12650
structure used exclusively for the commercial growing, raising, 12651
or overwintering of horticultural products, and includes the 12652
area used for stocking, storing, and packing horticultural 12653
products when done in conjunction with the production of those 12654
products. 12655

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(UU) (1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental"

includes future options to purchase or extend, and agreements 12686
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 12687
trailers where the amount of consideration may be increased or 12688
decreased by reference to the amount realized upon the sale or 12689
disposition of the property. "Lease" or "rental" does not 12690
include: 12691

(a) A transfer of possession or control of tangible 12692
personal property under a security agreement or a deferred 12693
payment plan that requires the transfer of title upon completion 12694
of the required payments; 12695

(b) A transfer of possession or control of tangible 12696
personal property under an agreement that requires the transfer 12697
of title upon completion of required payments and payment of an 12698
option price that does not exceed the greater of one hundred 12699
dollars or one per cent of the total required payments; 12700

(c) Providing tangible personal property along with an 12701
operator for a fixed or indefinite period of time, if the 12702
operator is necessary for the property to perform as designed. 12703
For purposes of this division, the operator must do more than 12704
maintain, inspect, or set up the tangible personal property. 12705

(2) "Lease" and "rental," as defined in division (UU) of 12706
this section, shall not apply to leases or rentals that exist 12707
before June 26, 2003. 12708

(3) "Lease" and "rental" have the same meaning as in 12709
division (UU) (1) of this section regardless of whether a 12710
transaction is characterized as a lease or rental under 12711
generally accepted accounting principles, the Internal Revenue 12712
Code, Title XIII of the Revised Code, or other federal, state, 12713
or local laws. 12714

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

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

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Municipal gas utility" means a municipal corporation that owns or operates a system for the distribution of natural gas.

(AAA) "Computer" means an electronic device that accepts 12744
information in digital or similar form and manipulates it for a 12745
result based on a sequence of instructions. 12746

(BBB) "Computer software" means a set of coded 12747
instructions designed to cause a computer or automatic data 12748
processing equipment to perform a task. 12749

(CCC) "Delivered electronically" means delivery of 12750
computer software from the seller to the purchaser by means 12751
other than tangible storage media. 12752

(DDD) "Prewritten computer software" means computer 12753
software, including prewritten upgrades, that is not designed 12754
and developed by the author or other creator to the 12755
specifications of a specific purchaser. The combining of two or 12756
more prewritten computer software programs or prewritten 12757
portions thereof does not cause the combination to be other than 12758
prewritten computer software. "Prewritten computer software" 12759
includes software designed and developed by the author or other 12760
creator to the specifications of a specific purchaser when it is 12761
sold to a person other than the purchaser. If a person modifies 12762
or enhances computer software of which the person is not the 12763
author or creator, the person shall be deemed to be the author 12764
or creator only of such person's modifications or enhancements. 12765
Prewritten computer software or a prewritten portion thereof 12766
that is modified or enhanced to any degree, where such 12767
modification or enhancement is designed and developed to the 12768
specifications of a specific purchaser, remains prewritten 12769
computer software; provided, however, that where there is a 12770
reasonable, separately stated charge or an invoice or other 12771
statement of the price given to the purchaser for the 12772
modification or enhancement, the modification or enhancement 12773

shall not constitute prewritten computer software. 12774

(EEE) (1) "Food" means substances, whether in liquid, 12775
concentrated, solid, frozen, dried, or dehydrated form, that are 12776
sold for ingestion or chewing by humans and are consumed for 12777
their taste or nutritional value. "Food" does not include 12778
alcoholic beverages, dietary supplements, soft drinks, or 12779
tobacco. 12780

(2) As used in division (EEE) (1) of this section: 12781

(a) "Alcoholic beverages" means beverages that are 12782
suitable for human consumption and contain one-half of one per 12783
cent or more of alcohol by volume. 12784

(b) "Dietary supplements" means any product, other than 12785
tobacco, that is intended to supplement the diet and that is 12786
intended for ingestion in tablet, capsule, powder, softgel, 12787
gelcap, or liquid form, or, if not intended for ingestion in 12788
such a form, is not represented as conventional food for use as 12789
a sole item of a meal or of the diet; that is required to be 12790
labeled as a dietary supplement, identifiable by the "supplement 12791
facts" box found on the label, as required by 21 C.F.R. 101.36; 12792
and that contains one or more of the following dietary 12793
ingredients: 12794

(i) A vitamin; 12795

(ii) A mineral; 12796

(iii) An herb or other botanical; 12797

(iv) An amino acid; 12798

(v) A dietary substance for use by humans to supplement 12799
the diet by increasing the total dietary intake; 12800

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE) (2) (b) (i) to (v) of this section. 12801
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(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume. 12804
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(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. 12809
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(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body. 12811
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(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription. 12820
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(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility 12824
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enhancing equipment. 12830

(III) "Mobility enhancing equipment" means equipment, 12831
including repair and replacement parts for such equipment, that 12832
is primarily and customarily used to provide or increase the 12833
ability to move from one place to another and is appropriate for 12834
use either in a home or a motor vehicle, that is not generally 12835
used by persons with normal mobility, and that does not include 12836
any motor vehicle or equipment on a motor vehicle normally 12837
provided by a motor vehicle manufacturer. "Mobility enhancing 12838
equipment" does not include durable medical equipment. 12839

(JJJ) "Prosthetic device" means a replacement, corrective, 12840
or supportive device, including repair and replacement parts for 12841
the device, worn on or in the human body to artificially replace 12842
a missing portion of the body, prevent or correct physical 12843
deformity or malfunction, or support a weak or deformed portion 12844
of the body. As used in this division, before July 1, 2019, 12845
"prosthetic device" does not include corrective eyeglasses, 12846
contact lenses, or dental prosthesis. On or after July 1, 2019, 12847
"prosthetic device" does not include dental prosthesis but does 12848
include corrective eyeglasses or contact lenses. 12849

(KKK) (1) "Fractional aircraft ownership program" means a 12850
program in which persons within an affiliated group sell and 12851
manage fractional ownership program aircraft, provided that at 12852
least one hundred airworthy aircraft are operated in the program 12853
and the program meets all of the following criteria: 12854

(a) Management services are provided by at least one 12855
program manager within an affiliated group on behalf of the 12856
fractional owners. 12857

(b) Each program aircraft is owned or possessed by at 12858

least one fractional owner. 12859

(c) Each fractional owner owns or possesses at least a 12860
one-sixteenth interest in at least one fixed-wing program 12861
aircraft. 12862

(d) A dry-lease aircraft interchange arrangement is in 12863
effect among all of the fractional owners. 12864

(e) Multi-year program agreements are in effect regarding 12865
the fractional ownership, management services, and dry-lease 12866
aircraft interchange arrangement aspects of the program. 12867

(2) As used in division (KKK) (1) of this section: 12868

(a) "Affiliated group" has the same meaning as in division 12869
(B) (3) (e) of this section. 12870

(b) "Fractional owner" means a person that owns or 12871
possesses at least a one-sixteenth interest in a program 12872
aircraft and has entered into the agreements described in 12873
division (KKK) (1) (e) of this section. 12874

(c) "Fractional ownership program aircraft" or "program 12875
aircraft" means a turbojet aircraft that is owned or possessed 12876
by a fractional owner and that has been included in a dry-lease 12877
aircraft interchange arrangement and agreement under divisions 12878
(KKK) (1) (d) and (e) of this section, or an aircraft a program 12879
manager owns or possesses primarily for use in a fractional 12880
aircraft ownership program. 12881

(d) "Management services" means administrative and 12882
aviation support services furnished under a fractional aircraft 12883
ownership program in accordance with a management services 12884
agreement under division (KKK) (1) (e) of this section, and 12885
offered by the program manager to the fractional owners, 12886

including, at a minimum, the establishment and implementation of 12887
safety guidelines; the coordination of the scheduling of the 12888
program aircraft and crews; program aircraft maintenance; 12889
program aircraft insurance; crew training for crews employed, 12890
furnished, or contracted by the program manager or the 12891
fractional owner; the satisfaction of record-keeping 12892
requirements; and the development and use of an operations 12893
manual and a maintenance manual for the fractional aircraft 12894
ownership program. 12895

(e) "Program manager" means the person that offers 12896
management services to fractional owners pursuant to a 12897
management services agreement under division (KKK) (1) (e) of this 12898
section. 12899

(LLL) "Electronic publishing" means providing access to 12900
one or more of the following primarily for business customers, 12901
including the federal government or a state government or a 12902
political subdivision thereof, to conduct research: news; 12903
business, financial, legal, consumer, or credit materials; 12904
editorials, columns, reader commentary, or features; photos or 12905
images; archival or research material; legal notices, identity 12906
verification, or public records; scientific, educational, 12907
instructional, technical, professional, trade, or other literary 12908
materials; or other similar information which has been gathered 12909
and made available by the provider to the consumer in an 12910
electronic format. Providing electronic publishing includes the 12911
functions necessary for the acquisition, formatting, editing, 12912
storage, and dissemination of data or information that is the 12913
subject of a sale. 12914

(MMM) "Medicaid health insuring corporation" means a 12915
health insuring corporation that holds a certificate of 12916

authority under Chapter 1751. of the Revised Code and is under 12917
contract with the department of medicaid pursuant to section 12918
5167.10 of the Revised Code. 12919

(NNN) "Managed care premium" means any premium, 12920
capitation, or other payment a medicaid health insuring 12921
corporation receives for providing or arranging for the 12922
provision of health care services to its members or enrollees 12923
residing in this state. 12924

(OOO) "Captive deer" means deer and other cervidae that 12925
have been legally acquired, or their offspring, that are 12926
privately owned for agricultural or farming purposes. 12927

(PPP) "Gift card" means a document, card, certificate, or 12928
other record, whether tangible or intangible, that may be 12929
redeemed by a consumer for a dollar value when making a purchase 12930
of tangible personal property or services. 12931

(QQQ) "Specified digital product" means an electronically 12932
transferred digital audiovisual work, digital audio work, or 12933
digital book. 12934

As used in division (QQQ) of this section: 12935

(1) "Digital audiovisual work" means a series of related 12936
images that, when shown in succession, impart an impression of 12937
motion, together with accompanying sounds, if any. 12938

(2) "Digital audio work" means a work that results from 12939
the fixation of a series of musical, spoken, or other sounds, 12940
including digitized sound files that are downloaded onto a 12941
device and that may be used to alert the customer with respect 12942
to a communication. 12943

(3) "Digital book" means a work that is generally 12944

recognized in the ordinary and usual sense as a book.	12945
(4) "Electronically transferred" means obtained by the purchaser by means other than tangible storage media.	12946 12947
(RRR) "Digital advertising services" means providing access, by means of telecommunications equipment, to computer equipment that is used to enter, upload, download, review, manipulate, store, add, or delete data for the purpose of electronically displaying, delivering, placing, or transferring promotional advertisements to potential customers about products or services or about industry or business brands.	12948 12949 12950 12951 12952 12953 12954
Sec. 5739.011. (A) As used in this section:	12955
(1) "Manufacturer" means a person who is engaged in manufacturing, processing, assembling, or refining a product for sale and, solely for the purposes of division (B) (12) of this section, a person who meets all the qualifications of that division.	12956 12957 12958 12959 12960
(2) "Manufacturing facility" means a single location where a manufacturing operation is conducted, including locations consisting of one or more buildings or structures in a contiguous area owned or controlled by the manufacturer.	12961 12962 12963 12964
(3) "Materials handling" means the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.	12965 12966 12967 12968
(4) "Testing" means a process or procedure to identify the properties or assure the quality of a material or product.	12969 12970
(5) "Completed product" means a manufactured item that is in the form and condition as it will be sold by the	12971 12972

manufacturer. An item is completed when all processes that 12973
change or alter its state or form or enhance its value are 12974
finished, even though the item subsequently will be tested to 12975
ensure its quality or be packaged for storage or shipment. 12976

(6) "Continuous manufacturing operation" means the process 12977
in which raw materials or components are moved through the steps 12978
whereby manufacturing occurs. Materials handling of raw 12979
materials or parts from the point of receipt or preproduction 12980
storage or of a completed product, to or from storage, to or 12981
from packaging, or to the place from which the completed product 12982
will be shipped, is not a part of a continuous manufacturing 12983
operation. 12984

(B) For purposes of division (B) (42) (g) of section 5739.02 12985
of the Revised Code, the "thing transferred" includes, but is 12986
not limited to, any of the following: 12987

(1) Production machinery and equipment that act upon the 12988
product or machinery and equipment that treat the materials or 12989
parts in preparation for the manufacturing operation; 12990

(2) Materials handling equipment that moves the product 12991
through a continuous manufacturing operation; equipment that 12992
temporarily stores the product during the manufacturing 12993
operation; or, excluding motor vehicles licensed to operate on 12994
public highways, equipment used in intraplant or interplant 12995
transfers of work in process where the plant or plants between 12996
which such transfers occur are manufacturing facilities operated 12997
by the same person; 12998

(3) Catalysts, solvents, water, acids, oil, and similar 12999
consumables that interact with the product and that are an 13000
integral part of the manufacturing operation; 13001

(4) Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation;	13002 13003 13004 13005 13006 13007
(5) Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale;	13008 13009 13010 13011
(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;	13012 13013 13014
(7) Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility;	13015 13016 13017
(8) Coke, gas, water, steam, and similar substances used in the manufacturing operation; machinery and equipment used for, and fuel consumed in, producing or extracting those substances; machinery, equipment, and other tangible personal property used to treat, filter, pump, or otherwise make the substance suitable for use in the manufacturing operation; and machinery and equipment used for, and fuel consumed in, producing electricity for use in the manufacturing operation;	13018 13019 13020 13021 13022 13023 13024 13025
(9) Machinery, equipment, and other tangible personal property used to transport or transmit electricity, coke, gas, water, steam, or similar substances used in the manufacturing operation from the point of generation, if produced by the manufacturer, or from the point where the substance enters the	13026 13027 13028 13029 13030

manufacturing facility, if purchased by the manufacturer, to the manufacturing operation;	13031 13032
(10) Machinery, equipment, and other tangible personal property that treats, filters, cools, refines, or otherwise renders water, steam, acid, oil, solvents, or similar substances used in the manufacturing operation reusable, provided that the substances are intended for reuse and not for disposal, sale, or transportation from the manufacturing facility;	13033 13034 13035 13036 13037 13038
(11) Parts, components, and repair and installation services for items described in division (B) of this section;	13039 13040
(12) Machinery and equipment, detergents, supplies, solvents, and any other tangible personal property located at a manufacturing facility that are used in the process of removing soil, dirt, or other contaminants from, or otherwise preparing in a suitable condition for use, towels, linens, articles of clothing, floor mats, mop heads, or other similar items, to be supplied to a consumer as part of laundry and dry cleaning services as defined in division (BB) of section 5739.01 of the Revised Code , only when the towels, linens, articles of clothing, floor mats, mop heads, or other similar items belong to the provider of the services;	13041 13042 13043 13044 13045 13046 13047 13048 13049 13050 13051
(13) Equipment and supplies used to clean processing equipment that is part of a continuous manufacturing operation to produce milk, ice cream, yogurt, cheese, and similar dairy products for human consumption.	13052 13053 13054 13055
(C) For purposes of division (B) (42) (g) of section 5739.02 of the Revised Code, the "thing transferred" does not include any of the following:	13056 13057 13058
(1) Tangible personal property used in administrative,	13059

personnel, security, inventory control, record-keeping,	13060
ordering, billing, or similar functions;	13061
(2) Tangible personal property used in storing raw	13062
materials or parts prior to the commencement of the	13063
manufacturing operation or used to handle or store a completed	13064
product, including storage that actively maintains a completed	13065
product in a marketable state or form;	13066
(3) Tangible personal property used to handle or store	13067
scrap or waste intended for disposal, sale, or other	13068
disposition, other than reuse in the manufacturing operation at	13069
the same manufacturing facility;	13070
(4) Tangible personal property that is or is to be	13071
incorporated into realty;	13072
(5) Machinery, equipment, and other tangible personal	13073
property used for ventilation, dust or gas collection, humidity	13074
or temperature regulation, or similar environmental control,	13075
except machinery, equipment, and other tangible personal	13076
property that totally regulates the environment in a special and	13077
limited area of the manufacturing facility where the regulation	13078
is essential for production to occur;	13079
(6) Tangible personal property used for the protection and	13080
safety of workers, unless the property is attached to or	13081
incorporated into machinery and equipment used in a continuous	13082
manufacturing operation;	13083
(7) Tangible personal property used to store fuel, water,	13084
solvents, acid, oil, or similar items consumed in the	13085
manufacturing operation;	13086
(8) Except as provided in division (B) (13) of this	13087
section, machinery, equipment, and other tangible personal	13088

property used to clean, repair, or maintain real or personal	13089
property in the manufacturing facility;	13090
(9) Motor vehicles registered for operation on public	13091
highways.	13092
(D) For purposes of division (B) (42) (g) of section 5739.02	13093
of the Revised Code, if the "thing transferred" is a machine	13094
used by a manufacturer in both a taxable and an exempt manner,	13095
it shall be totally taxable or totally exempt from taxation	13096
based upon its quantified primary use. If the "things	13097
transferred" are fungibles, they shall be taxed based upon the	13098
proportion of the fungibles used in a taxable manner.	13099
Sec. 5739.02. For the purpose of providing revenue with	13100
which to meet the needs of the state, for the use of the general	13101
revenue fund of the state, for the purpose of securing a	13102
thorough and efficient system of common schools throughout the	13103
state, for the purpose of affording revenues, in addition to	13104
those from general property taxes, permitted under	13105
constitutional limitations, and from other sources, for the	13106
support of local governmental functions, and for the purpose of	13107
reimbursing the state for the expense of administering this	13108
chapter, an excise tax is hereby levied on each retail sale made	13109
in this state.	13110
(A) (1) The tax shall be collected as provided in section	13111
5739.025 of the Revised Code. The rate of the tax shall be five	13112
and three-fourths per cent. The tax applies and is collectible	13113
when the sale is made, regardless of the time when the price is	13114
paid or delivered.	13115
(2) In the case of the lease or rental, with a fixed term	13116
of more than thirty days or an indefinite term with a minimum	13117

period of more than thirty days, of any motor vehicles designed 13118
by the manufacturer to carry a load of not more than one ton, 13119
watercraft, outboard motor, or aircraft, or of any tangible 13120
personal property, other than motor vehicles designed by the 13121
manufacturer to carry a load of more than one ton, to be used by 13122
the lessee or renter primarily for business purposes, the tax 13123
shall be collected by the vendor at the time the lease or rental 13124
is consummated and shall be calculated by the vendor on the 13125
basis of the total amount to be paid by the lessee or renter 13126
under the lease agreement. If the total amount of the 13127
consideration for the lease or rental includes amounts that are 13128
not calculated at the time the lease or rental is executed, the 13129
tax shall be calculated and collected by the vendor at the time 13130
such amounts are billed to the lessee or renter. In the case of 13131
an open-end lease or rental, the tax shall be calculated by the 13132
vendor on the basis of the total amount to be paid during the 13133
initial fixed term of the lease or rental, and for each 13134
subsequent renewal period as it comes due. As used in this 13135
division, "motor vehicle" has the same meaning as in section 13136
4501.01 of the Revised Code, and "watercraft" includes an 13137
outdrive unit attached to the watercraft. 13138

A lease with a renewal clause and a termination penalty or 13139
similar provision that applies if the renewal clause is not 13140
exercised is presumed to be a sham transaction. In such a case, 13141
the tax shall be calculated and paid on the basis of the entire 13142
length of the lease period, including any renewal periods, until 13143
the termination penalty or similar provision no longer applies. 13144
The taxpayer shall bear the burden, by a preponderance of the 13145
evidence, that the transaction or series of transactions is not 13146
a sham transaction. 13147

(3) Except as provided in division (A) (2) of this section, 13148

in the case of a sale, the price of which consists in whole or 13149
in part of the lease or rental of tangible personal property, 13150
the tax shall be measured by the installments of that lease or 13151
rental. 13152

(4) In the case of a sale of a physical fitness facility 13153
service or recreation and sports club service, the price of 13154
which consists in whole or in part of a membership for the 13155
receipt of the benefit of the service, the tax applicable to the 13156
sale shall be measured by the installments thereof. 13157

(B) The tax does not apply to the following: 13158

(1) Sales to the state or any of its political 13159
subdivisions, or to any other state or its political 13160
subdivisions if the laws of that state exempt from taxation 13161
sales made to this state and its political subdivisions; 13162

(2) Sales of food for human consumption off the premises 13163
where sold; 13164

(3) Sales of food sold to students only in a cafeteria, 13165
dormitory, fraternity, or sorority maintained in a private, 13166
public, or parochial school, college, or university; 13167

(4) Sales of newspapers and sales or transfers of 13168
magazines distributed as controlled circulation publications; 13169

(5) The furnishing, preparing, or serving of meals without 13170
charge by an employer to an employee provided the employer 13171
records the meals as part compensation for services performed or 13172
work done; 13173

(6) (a) Sales of motor fuel upon receipt, use, 13174
distribution, or sale of which in this state a tax is imposed by 13175
the law of this state, but this exemption shall not apply to the 13176

sale of motor fuel on which a refund of the tax is allowable 13177
under division (A) of section 5735.14 of the Revised Code; and 13178
the tax commissioner may deduct the amount of tax levied by this 13179
section applicable to the price of motor fuel when granting a 13180
refund of motor fuel tax pursuant to division (A) of section 13181
5735.14 of the Revised Code and shall cause the amount deducted 13182
to be paid into the general revenue fund of this state; 13183

(b) Sales of motor fuel other than that described in 13184
division (B) (6) (a) of this section and used for powering a 13185
refrigeration unit on a vehicle other than one used primarily to 13186
provide comfort to the operator or occupants of the vehicle. 13187

(7) Sales of natural gas by a natural gas company or 13188
municipal gas utility, of water by a water-works company, or of 13189
steam by a heating company, if in each case the thing sold is 13190
delivered to consumers through pipes or conduits, and all sales 13191
of communications services by a telegraph company, all terms as 13192
defined in section 5727.01 of the Revised Code, and sales of 13193
electricity delivered through wires; 13194

(8) Casual sales by a person, or auctioneer employed 13195
directly by the person to conduct such sales, except as to such 13196
sales of motor vehicles, watercraft or outboard motors required 13197
to be titled under section 1548.06 of the Revised Code, 13198
watercraft documented with the United States coast guard, 13199
snowmobiles, and all-purpose vehicles as defined in section 13200
4519.01 of the Revised Code; 13201

(9) (a) Sales of services or tangible personal property, 13202
other than motor vehicles, mobile homes, and manufactured homes, 13203
by churches, organizations exempt from taxation under section 13204
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 13205
organizations operated exclusively for charitable purposes as 13206

defined in division (B) (12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B) (9) (b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B) (9) (a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B) (9) (a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution or laws of the United States or the Constitution of this state;

(11) Except for transactions that are sales under division (B) (3) (r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c) (3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the

operation of a community or area center in which presentations 13267
in music, dramatics, the arts, and related fields are made in 13268
order to foster public interest and education therein; the 13269
production of performances in music, dramatics, and the arts; or 13270
the promotion of education by an organization engaged in 13271
carrying on research in, or the dissemination of, scientific and 13272
technological knowledge and information primarily for the 13273
public. 13274

Nothing in this division shall be deemed to exempt sales 13275
to any organization for use in the operation or carrying on of a 13276
trade or business, or sales to a home for the aged for use in 13277
the operation of independent living facilities as defined in 13278
division (A) of section 5709.12 of the Revised Code. 13279

(13) Building and construction materials and services sold 13280
to construction contractors for incorporation into a structure 13281
or improvement to real property under a construction contract 13282
with this state or a political subdivision of this state, or 13283
with the United States government or any of its agencies; 13284
building and construction materials and services sold to 13285
construction contractors for incorporation into a structure or 13286
improvement to real property that are accepted for ownership by 13287
this state or any of its political subdivisions, or by the 13288
United States government or any of its agencies at the time of 13289
completion of the structures or improvements; building and 13290
construction materials sold to construction contractors for 13291
incorporation into a horticulture structure or livestock 13292
structure for a person engaged in the business of horticulture 13293
or producing livestock; building materials and services sold to 13294
a construction contractor for incorporation into a house of 13295
public worship or religious education, or a building used 13296
exclusively for charitable purposes under a construction 13297

contract with an organization whose purpose is as described in 13298
division (B) (12) of this section; building materials and 13299
services sold to a construction contractor for incorporation 13300
into a building under a construction contract with an 13301
organization exempt from taxation under section 501(c) (3) of the 13302
Internal Revenue Code of 1986 when the building is to be used 13303
exclusively for the organization's exempt purposes; building and 13304
construction materials sold for incorporation into the original 13305
construction of a sports facility under section 307.696 of the 13306
Revised Code; building and construction materials and services 13307
sold to a construction contractor for incorporation into real 13308
property outside this state if such materials and services, when 13309
sold to a construction contractor in the state in which the real 13310
property is located for incorporation into real property in that 13311
state, would be exempt from a tax on sales levied by that state; 13312
building and construction materials for incorporation into a 13313
transportation facility pursuant to a public-private agreement 13314
entered into under sections 5501.70 to 5501.83 of the Revised 13315
Code; and, until one calendar year after the construction of a 13316
convention center that qualifies for property tax exemption 13317
under section 5709.084 of the Revised Code is completed, 13318
building and construction materials and services sold to a 13319
construction contractor for incorporation into the real property 13320
comprising that convention center; 13321

(14) Sales of ships or vessels or rail rolling stock used 13322
or to be used principally in interstate or foreign commerce, and 13323
repairs, alterations, fuel, and lubricants for such ships or 13324
vessels or rail rolling stock; 13325

(15) Sales to persons primarily engaged in any of the 13326
activities mentioned in division (B) (42) (a), (g), or (h) of this 13327
section, to persons engaged in making retail sales, or to 13328

persons who purchase for sale from a manufacturer tangible 13329
personal property that was produced by the manufacturer in 13330
accordance with specific designs provided by the purchaser, of 13331
packages, including material, labels, and parts for packages, 13332
and of machinery, equipment, and material for use primarily in 13333
packaging tangible personal property produced for sale, 13334
including any machinery, equipment, and supplies used to make 13335
labels or packages, to prepare packages or products for 13336
labeling, or to label packages or products, by or on the order 13337
of the person doing the packaging, or sold at retail. "Packages" 13338
includes bags, baskets, cartons, crates, boxes, cans, bottles, 13339
bindings, wrappings, and other similar devices and containers, 13340
but does not include motor vehicles or bulk tanks, trailers, or 13341
similar devices attached to motor vehicles. "Packaging" means 13342
placing in a package. Division (B) (15) of this section does not 13343
apply to persons engaged in highway transportation for hire. 13344

(16) Sales of food to persons using supplemental nutrition 13345
assistance program benefits to purchase the food. As used in 13346
this division, "food" has the same meaning as in 7 U.S.C. 2012 13347
and federal regulations adopted pursuant to the Food and 13348
Nutrition Act of 2008. 13349

(17) Sales to persons engaged in farming, agriculture, 13350
horticulture, or floriculture, of tangible personal property for 13351
use or consumption primarily in the production by farming, 13352
agriculture, horticulture, or floriculture of other tangible 13353
personal property for use or consumption primarily in the 13354
production of tangible personal property for sale by farming, 13355
agriculture, horticulture, or floriculture; or material and 13356
parts for incorporation into any such tangible personal property 13357
for use or consumption in production; and of tangible personal 13358
property for such use or consumption in the conditioning or 13359

holding of products produced by and for such use, consumption, 13360
or sale by persons engaged in farming, agriculture, 13361
horticulture, or floriculture, except where such property is 13362
incorporated into real property; 13363

(18) Sales of drugs for a human being that may be 13364
dispensed only pursuant to a prescription; insulin as recognized 13365
in the official United States pharmacopoeia; urine and blood 13366
testing materials when used by diabetics or persons with 13367
hypoglycemia to test for glucose or acetone; hypodermic syringes 13368
and needles when used by diabetics for insulin injections; 13369
epoetin alfa when purchased for use in the treatment of persons 13370
with medical disease; hospital beds when purchased by hospitals, 13371
nursing homes, or other medical facilities; and medical oxygen 13372
and medical oxygen-dispensing equipment when purchased by 13373
hospitals, nursing homes, or other medical facilities; 13374

(19) Sales of prosthetic devices, durable medical 13375
equipment for home use, or mobility enhancing equipment, when 13376
made pursuant to a prescription and when such devices or 13377
equipment are for use by a human being. 13378

(20) Sales of emergency and fire protection vehicles and 13379
equipment to nonprofit organizations for use solely in providing 13380
fire protection and emergency services, including trauma care 13381
and emergency medical services, for political subdivisions of 13382
the state; 13383

(21) Sales of tangible personal property manufactured in 13384
this state, if sold by the manufacturer in this state to a 13385
retailer for use in the retail business of the retailer outside 13386
of this state and if possession is taken from the manufacturer 13387
by the purchaser within this state for the sole purpose of 13388
immediately removing the same from this state in a vehicle owned 13389

by the purchaser;	13390
(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;	13391 13392 13393 13394 13395
(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;	13396 13397 13398
(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.	13399 13400 13401 13402 13403 13404 13405 13406 13407 13408 13409 13410 13411 13412 13413
(25) (a) Sales of water to a consumer for residential use;	13414
(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.	13415 13416 13417 13418

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;	13419 13420
(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:	13421 13422 13423 13424
(a) To prepare food for human consumption for sale;	13425
(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;	13426 13427 13428 13429
(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.	13430 13431
(28) Sales of animals by nonprofit animal adoption services or county humane societies;	13432 13433
(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;	13434 13435 13436 13437
(30) Sales and installation of agricultural land tile, as defined in division (B) (5) (a) of section 5739.01 of the Revised Code;	13438 13439 13440
(31) Sales and erection or installation of portable grain bins, as defined in division (B) (5) (b) of section 5739.01 of the Revised Code;	13441 13442 13443
(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal	13444 13445 13446

property belonging to others by a person engaged in highway 13447
transportation for hire, except for packages and packaging used 13448
for the transportation of tangible personal property; 13449

(33) Sales to the state headquarters of any veterans' 13450
organization in this state that is either incorporated and 13451
issued a charter by the congress of the United States or is 13452
recognized by the United States veterans administration, for use 13453
by the headquarters; 13454

(34) Sales to a telecommunications service vendor, mobile 13455
telecommunications service vendor, or satellite broadcasting 13456
service vendor of tangible personal property and services used 13457
directly and primarily in transmitting, receiving, switching, or 13458
recording any interactive, one- or two-way electromagnetic 13459
communications, including voice, image, data, and information, 13460
through the use of any medium, including, but not limited to, 13461
poles, wires, cables, switching equipment, computers, and record 13462
storage devices and media, and component parts for the tangible 13463
personal property. The exemption provided in this division shall 13464
be in lieu of all other exemptions under division (B) (42) (a) or 13465
(n) of this section to which the vendor may otherwise be 13466
entitled, based upon the use of the thing purchased in providing 13467
the telecommunications, mobile telecommunications, or satellite 13468
broadcasting service. 13469

(35) (a) Sales where the purpose of the consumer is to use 13470
or consume the things transferred in making retail sales and 13471
consisting of newspaper inserts, catalogues, coupons, flyers, 13472
gift certificates, or other advertising material that prices and 13473
describes tangible personal property offered for retail sale. 13474

(b) Sales to direct marketing vendors of preliminary 13475
materials such as photographs, artwork, and typesetting that 13476

will be used in printing advertising material; and of printed 13477
matter that offers free merchandise or chances to win sweepstake 13478
prizes and that is mailed to potential customers with 13479
advertising material described in division (B) (35) (a) of this 13480
section; 13481

(c) Sales of equipment such as telephones, computers, 13482
facsimile machines, and similar tangible personal property 13483
primarily used to accept orders for direct marketing retail 13484
sales. 13485

(d) Sales of automatic food vending machines that preserve 13486
food with a shelf life of forty-five days or less by 13487
refrigeration and dispense it to the consumer. 13488

For purposes of division (B) (35) of this section, "direct 13489
marketing" means the method of selling where consumers order 13490
tangible personal property by United States mail, delivery 13491
service, or telecommunication and the vendor delivers or ships 13492
the tangible personal property sold to the consumer from a 13493
warehouse, catalogue distribution center, or similar fulfillment 13494
facility by means of the United States mail, delivery service, 13495
or common carrier. 13496

(36) Sales to a person engaged in the business of 13497
horticulture or producing livestock of materials to be 13498
incorporated into a horticulture structure or livestock 13499
structure; 13500

(37) Sales of personal computers, computer monitors, 13501
computer keyboards, modems, and other peripheral computer 13502
equipment to an individual who is licensed or certified to teach 13503
in an elementary or a secondary school in this state for use by 13504
that individual in preparation for teaching elementary or 13505

secondary school students;	13506
(38) Sales to a professional racing team of any of the following:	13507
	13508
(a) Motor racing vehicles;	13509
(b) Repair services for motor racing vehicles;	13510
(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.	13511
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(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	13519
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(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially	13522
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designed and equipped for such use. The exemption provided in 13535
this division shall be in lieu of all other exemptions in 13536
division (B) (42) (a) or (n) of this section to which a provider 13537
of electricity may otherwise be entitled based on the use of the 13538
tangible personal property or service purchased in generating, 13539
transmitting, or distributing electricity. 13540

(41) Sales to a person providing services under division 13541
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 13542
personal property and services used directly and primarily in 13543
providing taxable services under that section. 13544

(42) Sales where the purpose of the purchaser is to do any 13545
of the following: 13546

(a) To incorporate the thing transferred as a material or 13547
a part into tangible personal property to be produced for sale 13548
by manufacturing, assembling, processing, or refining; or to use 13549
or consume the thing transferred directly in producing tangible 13550
personal property for sale by mining, including, without 13551
limitation, the extraction from the earth of all substances that 13552
are classed geologically as minerals, or directly in the 13553
rendition of a public utility service, except that the sales tax 13554
levied by this section shall be collected upon all meals, 13555
drinks, and food for human consumption sold when transporting 13556
persons. This paragraph does not exempt from "retail sale" or 13557
"sales at retail" the sale of tangible personal property that is 13558
to be incorporated into a structure or improvement to real 13559
property. 13560

(b) To hold the thing transferred as security for the 13561
performance of an obligation of the vendor; 13562

(c) To resell, hold, use, or consume the thing transferred 13563

as evidence of a contract of insurance;	13564
(d) To use or consume the thing directly in commercial fishing;	13565 13566
(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;	13567 13568 13569 13570
(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;	13571 13572 13573 13574 13575
(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;	13576 13577 13578
(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B) (7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;	13579 13580 13581 13582 13583 13584
(i) To use the thing transferred as qualified research and development equipment;	13585 13586
(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to	13587 13588 13589 13590 13591 13592

retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B) (3) (e) of section 5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B) (35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B) (7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B) (3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, 13623
formatting, editing, storing, and disseminating data or 13624
information by electronic publishing; 13625

(p) To provide the thing transferred to the owner or 13626
lessee of a motor vehicle that is being repaired or serviced, if 13627
the thing transferred is a rented motor vehicle and the 13628
purchaser is reimbursed for the cost of the rented motor vehicle 13629
by a manufacturer, warrantor, or provider of a maintenance, 13630
service, or other similar contract or agreement, with respect to 13631
the motor vehicle that is being repaired or serviced; 13632

(q) To use or consume the thing transferred directly in 13633
production of crude oil and natural gas for sale. Persons 13634
engaged in rendering production services for others are deemed 13635
engaged in production. 13636

As used in division (B) (42) (q) of this section, 13637
"production" means operations and tangible personal property 13638
directly used to expose and evaluate an underground reservoir 13639
that may contain hydrocarbon resources, prepare the wellbore for 13640
production, and lift and control all substances yielded by the 13641
reservoir to the surface of the earth. 13642

(i) For the purposes of division (B) (42) (q) of this 13643
section, the "thing transferred" includes, but is not limited 13644
to, any of the following: 13645

(I) Services provided in the construction of permanent 13646
access roads, services provided in the construction of the well 13647
site, and services provided in the construction of temporary 13648
impoundments; 13649

(II) Equipment and rigging used for the specific purpose 13650
of creating with integrity a wellbore pathway to underground 13651

reservoirs;	13652
(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;	13653 13654 13655
(IV) Casing, tubulars, and float and centralizing equipment;	13656 13657
(V) Trailers to which production equipment is attached;	13658
(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;	13659 13660 13661
(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;	13662 13663 13664
(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;	13665 13666 13667 13668
(IX) Pressure pumping equipment;	13669
(X) Artificial lift systems equipment;	13670
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	13671 13672 13673
(XII) Tangible personal property directly used to control production equipment.	13674 13675
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	13676 13677 13678

(I) Tangible personal property used primarily in the exploration and production of any mineral resource regulated under Chapter 1509. of the Revised Code other than oil or gas;	13679 13680 13681
(II) Tangible personal property used primarily in storing, holding, or delivering solutions or chemicals used in well stimulation as defined in section 1509.01 of the Revised Code;	13682 13683 13684
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	13685 13686 13687
(IV) Tangible personal property used primarily in transporting, delivering, or removing equipment to or from the well site or storing such equipment before its use at the well site;	13688 13689 13690 13691
(V) Tangible personal property used primarily in gathering operations occurring off the well site, including gathering pipelines transporting hydrocarbon gas or liquids away from a crude oil or natural gas production facility;	13692 13693 13694 13695
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	13696 13697
(VII) Well site fencing, lighting, or security systems;	13698
(VIII) Communication devices or services;	13699
(IX) Office supplies;	13700
(X) Trailers used as offices or lodging;	13701
(XI) Motor vehicles of any kind;	13702
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	13703 13704
(XIII) Tangible personal property used primarily as a	13705

safety device; 13706

(XIV) Data collection or monitoring devices; 13707

(XV) Access ladders, stairs, or platforms attached to 13708
storage tanks. 13709

The enumeration of tangible personal property in division 13710
(B) (42) (q) (ii) of this section is not intended to be exhaustive, 13711
and any tangible personal property not so enumerated shall not 13712
necessarily be construed to be a "thing transferred" for the 13713
purposes of division (B) (42) (q) of this section. 13714

The commissioner shall adopt and promulgate rules under 13715
sections 119.01 to 119.13 of the Revised Code that the 13716
commissioner deems necessary to administer division (B) (42) (q) 13717
of this section. 13718

As used in division (B) (42) of this section, "thing" 13719
includes all transactions included in divisions (B) (3) (a), (b), 13720
and (e) of section 5739.01 of the Revised Code. 13721

(43) Sales conducted through a coin operated device that 13722
activates vacuum equipment or equipment that dispenses water, 13723
whether or not in combination with soap or other cleaning agents 13724
or wax, to the consumer for the consumer's use on the premises 13725
in washing, cleaning, or waxing a motor vehicle, provided no 13726
other personal property or personal service is provided as part 13727
of the transaction. 13728

(44) Sales of replacement and modification parts for 13729
engines, airframes, instruments, and interiors in, and paint 13730
for, aircraft used primarily in a fractional aircraft ownership 13731
program, and sales of services for the repair, modification, and 13732
maintenance of such aircraft, and machinery, equipment, and 13733
supplies primarily used to provide those services. 13734

(45) Sales of telecommunications service that is used 13735
directly and primarily to perform the functions of a call 13736
center. As used in this division, "call center" means any 13737
physical location where telephone calls are placed or received 13738
in high volume for the purpose of making sales, marketing, 13739
customer service, technical support, or other specialized 13740
business activity, and that employs at least fifty individuals 13741
that engage in call center activities on a full-time basis, or 13742
sufficient individuals to fill fifty full-time equivalent 13743
positions. 13744

(46) Sales by a telecommunications service vendor of 900 13745
service to a subscriber. This division does not apply to 13746
~~information services, as defined in division (FF) of section~~ 13747
~~5739.01 of the Revised Code.~~ 13748

(47) Sales of value-added non-voice data service. This 13749
division does not apply to any similar service that is not 13750
otherwise a telecommunications service. 13751

~~(48) (a) Sales of machinery, equipment, and software to a~~ 13752
~~qualified direct selling entity for use in a warehouse or~~ 13753
~~distribution center primarily for storing, transporting, or~~ 13754
~~otherwise handling inventory that is held for sale to~~ 13755
~~independent salespersons who operate as direct sellers and that~~ 13756
~~is held primarily for distribution outside this state;~~ 13757

~~(b) As used in division (B) (48) (a) of this section:~~ 13758

~~(i) "Direct seller" means a person selling consumer~~ 13759
~~products to individuals for personal or household use and not~~ 13760
~~from a fixed retail location, including selling such product at~~ 13761
~~in-home product demonstrations, parties, and other one-on-one~~ 13762
~~selling.~~ 13763

~~(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.~~

~~(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.~~

~~(49)~~ Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)~~(49)~~(48) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

~~(50)~~(49) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to

represent aircraft operations in ground and flight conditions, a 13794
visual system providing an out-of-the-cockpit view, and a system 13795
that provides cues at least equivalent to those of a three- 13796
degree-of-freedom motion system, and has the full range of 13797
capabilities of the systems installed in the device as described 13798
in appendices A and B of part 60 of chapter 1 of title 14 of the 13799
Code of Federal Regulations. 13800

~~(51)~~(50) Any transfer or lease of tangible personal 13801
property between the state and JobsOhio in accordance with 13802
section 4313.02 of the Revised Code. 13803

~~(52)~~(51) (a) Sales to a qualifying corporation. 13804

(b) As used in division (B) ~~(52)~~(51) of this section: 13805

(i) "Qualifying corporation" means a nonprofit corporation 13806
organized in this state that leases from an eligible county 13807
land, buildings, structures, fixtures, and improvements to the 13808
land that are part of or used in a public recreational facility 13809
used by a major league professional athletic team or a class A 13810
to class AAA minor league affiliate of a major league 13811
professional athletic team for a significant portion of the 13812
team's home schedule, provided the following apply: 13813

(I) The facility is leased from the eligible county 13814
pursuant to a lease that requires substantially all of the 13815
revenue from the operation of the business or activity conducted 13816
by the nonprofit corporation at the facility in excess of 13817
operating costs, capital expenditures, and reserves to be paid 13818
to the eligible county at least once per calendar year. 13819

(II) Upon dissolution and liquidation of the nonprofit 13820
corporation, all of its net assets are distributable to the 13821
board of commissioners of the eligible county from which the 13822

corporation leases the facility. 13823

(ii) "Eligible county" has the same meaning as in section 13824
307.695 of the Revised Code. 13825

~~(53)~~ (52) Sales to or by a cable service provider, video 13826
service provider, or radio or television broadcast station 13827
regulated by the federal government of cable service or 13828
programming, video service or programming, audio service or 13829
programming, or electronically transferred digital audiovisual 13830
or audio work. As used in division (B) ~~(53)~~ (52) of this section, 13831
"cable service" and "cable service provider" have the same 13832
meanings as in section 1332.01 of the Revised Code, and "video 13833
service," "video service provider," and "video programming" have 13834
the same meanings as in section 1332.21 of the Revised Code. 13835

~~(54)~~ (53) Sales of investment metal bullion and investment 13836
coins. "Investment metal bullion" means any bullion described in 13837
section 408(m)(3)(B) of the Internal Revenue Code, regardless of 13838
whether that bullion is in the physical possession of a trustee. 13839
"Investment coin" means any coin composed primarily of gold, 13840
silver, platinum, or palladium. 13841

~~(55)~~ (54) Sales of a digital audio work electronically 13842
transferred for delivery through use of a machine, such as a 13843
juke box, that does all of the following: 13844

(a) Accepts direct payments to operate; 13845

(b) Automatically plays a selected digital audio work for 13846
a single play upon receipt of a payment described in division 13847
(B) ~~(55)~~ (54) (a) of this section; 13848

(c) Operates exclusively for the purpose of playing 13849
digital audio works in a commercial establishment. 13850

(56) (55) (a) Sales of the following occurring on the first	13851
Friday of August and the following Saturday and Sunday of each	13852
year, beginning in 2018:	13853
(i) An item of clothing, the price of which is seventy-	13854
five dollars or less;	13855
(ii) An item of school supplies, the price of which is	13856
twenty dollars or less;	13857
(iii) An item of school instructional material, the price	13858
of which is twenty dollars or less.	13859
(b) As used in division (B) (56) (55) of this section:	13860
(i) "Clothing" means all human wearing apparel suitable	13861
for general use. "Clothing" includes, but is not limited to,	13862
aprons, household and shop; athletic supporters; baby receiving	13863
blankets; bathing suits and caps; beach capes and coats; belts	13864
and suspenders; boots; coats and jackets; costumes; diapers,	13865
children and adult, including disposable diapers; earmuffs;	13866
footlets; formal wear; garters and garter belts; girdles; gloves	13867
and mittens for general use; hats and caps; hosiery; insoles for	13868
shoes; lab coats; neckties; overshoes; pantyhose; rainwear;	13869
rubber pants; sandals; scarves; shoes and shoe laces; slippers;	13870
sneakers; socks and stockings; steel-toed shoes; underwear;	13871
uniforms, athletic and nonathletic; and wedding apparel.	13872
"Clothing" does not include items purchased for use in a trade	13873
or business; clothing accessories or equipment; protective	13874
equipment; sports or recreational equipment; belt buckles sold	13875
separately; costume masks sold separately; patches and emblems	13876
sold separately; sewing equipment and supplies including, but	13877
not limited to, knitting needles, patterns, pins, scissors,	13878
sewing machines, sewing needles, tape measures, and thimbles;	13879

and sewing materials that become part of "clothing" including, 13880
but not limited to, buttons, fabric, lace, thread, yarn, and 13881
zippers. 13882

(ii) "School supplies" means items commonly used by a 13883
student in a course of study. "School supplies" includes only 13884
the following items: binders; book bags; calculators; cellophane 13885
tape; blackboard chalk; compasses; composition books; crayons; 13886
erasers; folders, expandable, pocket, plastic, and manila; glue, 13887
paste, and paste sticks; highlighters; index cards; index card 13888
boxes; legal pads; lunch boxes; markers; notebooks; paper, 13889
loose-leaf ruled notebook paper, copy paper, graph paper, 13890
tracing paper, manila paper, colored paper, poster board, and 13891
construction paper; pencil boxes and other school supply boxes; 13892
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 13893
and writing tablets. "School supplies" does not include any item 13894
purchased for use in a trade or business. 13895

(iii) "School instructional material" means written 13896
material commonly used by a student in a course of study as a 13897
reference and to learn the subject being taught. "School 13898
instructional material" includes only the following items: 13899
reference books, reference maps and globes, textbooks, and 13900
workbooks. "School instructional material" does not include any 13901
material purchased for use in a trade or business. 13902

~~(57)~~ (56) Sales of tangible personal property that is not 13903
required to be registered or licensed under the laws of this 13904
state to a citizen of a foreign nation that is not a citizen of 13905
the United States, provided the property is delivered to a 13906
person in this state that is not a related member of the 13907
purchaser, is physically present in this state for the sole 13908
purpose of temporary storage and package consolidation, and is 13909

subsequently delivered to the purchaser at a delivery address in 13910
a foreign nation. As used in division (B) (56) of this section, 13911
"related member" has the same meaning as in section 5733.042 of 13912
the Revised Code, and "temporary storage" means the storage of 13913
tangible personal property for a period of not more than sixty 13914
days. 13915

(C) For the purpose of the proper administration of this 13916
chapter, and to prevent the evasion of the tax, it is presumed 13917
that all sales made in this state are subject to the tax until 13918
the contrary is established. 13919

(D) The levy of this tax on retail sales of recreation and 13920
sports club service shall not prevent a municipal corporation 13921
from levying any tax on recreation and sports club dues or on 13922
any income generated by recreation and sports club dues. 13923

(E) The tax collected by the vendor from the consumer 13924
under this chapter is not part of the price, but is a tax 13925
collection for the benefit of the state, and of counties levying 13926
an additional sales tax pursuant to section 5739.021 or 5739.026 13927
of the Revised Code and of transit authorities levying an 13928
additional sales tax pursuant to section 5739.023 of the Revised 13929
Code. Except for the discount authorized under section 5739.12 13930
of the Revised Code and the effects of any rounding pursuant to 13931
section 5703.055 of the Revised Code, no person other than the 13932
state or such a county or transit authority shall derive any 13933
benefit from the collection or payment of the tax levied by this 13934
section or section 5739.021, 5739.023, or 5739.026 of the 13935
Revised Code. 13936

Sec. 5739.021. (A) For the purpose of providing additional 13937
general revenues for the county, supporting criminal and 13938
administrative justice services in the county, funding a 13939

regional transportation improvement project under section 13940
5595.06 of the Revised Code, or any combination of the 13941
foregoing, and to pay the expenses of administering such levy, 13942
any county may levy a tax at the rate of not more than one per 13943
cent upon every retail sale made in the county, except sales of 13944
watercraft and outboard motors required to be titled pursuant to 13945
Chapter 1548. of the Revised Code and sales of motor vehicles, 13946
and may increase the rate of an existing tax to not more than 13947
one per cent. The rate of any tax levied pursuant to this 13948
section shall be a multiple of one-fourth or one-tenth of one 13949
per cent. 13950

The tax shall be levied and the rate increased pursuant to 13951
a resolution of the board of county commissioners. The 13952
resolution shall state the purpose for which the tax is to be 13953
levied and the number of years for which the tax is to be 13954
levied, or that it is for a continuing period of time. If the 13955
tax is to be levied for the purpose of providing additional 13956
general revenues and for the purpose of supporting criminal and 13957
administrative justice services, the resolution shall state the 13958
rate or amount of the tax to be apportioned to each such 13959
purpose. The rate or amount may be different for each year the 13960
tax is to be levied, but the rates or amounts actually 13961
apportioned each year shall not be different from that stated in 13962
the resolution for that year. If the resolution is adopted as an 13963
emergency measure necessary for the immediate preservation of 13964
the public peace, health, or safety, it must receive an 13965
affirmative vote of all of the members of the board of county 13966
commissioners and shall state the reasons for such necessity. 13967
The board shall deliver a certified copy of the resolution to 13968
the tax commissioner, not later than the sixty-fifth day prior 13969
to the date on which the tax is to become effective, which shall 13970

be the first day of the calendar quarter. 13971

Prior to the adoption of any resolution under this 13972
section, the board of county commissioners shall conduct two 13973
public hearings on the resolution, the second hearing to be not 13974
less than three nor more than ten days after the first. Notice 13975
of the date, time, and place of the hearings shall be given by 13976
publication in a newspaper of general circulation in the county, 13977
or as provided in section 7.16 of the Revised Code, once a week 13978
on the same day of the week for two consecutive weeks, the 13979
second publication being not less than ten nor more than thirty 13980
days prior to the first hearing. 13981

Except as provided in division (B) (3) of this section, the 13982
resolution shall be subject to a referendum as provided in 13983
sections 305.31 to 305.41 of the Revised Code. 13984

If a petition for a referendum is filed, the county 13985
auditor with whom the petition was filed shall, within five 13986
days, notify the board of county commissioners and the tax 13987
commissioner of the filing of the petition by certified mail. If 13988
the board of elections with which the petition was filed 13989
declares the petition invalid, the board of elections, within 13990
five days, shall notify the board of county commissioners and 13991
the tax commissioner of that declaration by certified mail. If 13992
the petition is declared to be invalid, the effective date of 13993
the tax or increased rate of tax levied by this section shall be 13994
the first day of a calendar quarter following the expiration of 13995
sixty-five days from the date the commissioner receives notice 13996
from the board of elections that the petition is invalid. 13997

(B) (1) A resolution that is not adopted as an emergency 13998
measure may direct the board of elections to submit the question 13999
of levying the tax or increasing the rate of tax to the electors 14000

of the county at a special election held on the date specified 14001
by the board of county commissioners in the resolution, provided 14002
that the election occurs not less than ninety days after a 14003
certified copy of such resolution is transmitted to the board of 14004
elections and the election is not held in ~~February or~~ August of 14005
any year. Upon transmission of the resolution to the board of 14006
elections, the board of county commissioners shall notify the 14007
tax commissioner in writing of the levy question to be submitted 14008
to the electors. No resolution adopted under this division shall 14009
go into effect unless approved by a majority of those voting 14010
upon it, and, except as provided in division (B) (3) of this 14011
section, shall become effective on the first day of a calendar 14012
quarter following the expiration of sixty-five days from the 14013
date the tax commissioner receives notice from the board of 14014
elections of the affirmative vote. 14015

(2) A resolution that is adopted as an emergency measure 14016
shall go into effect as provided in division (A) of this 14017
section, but may direct the board of elections to submit the 14018
question of repealing the tax or increase in the rate of the tax 14019
to the electors of the county at the next general election in 14020
the county occurring not less than ninety days after a certified 14021
copy of the resolution is transmitted to the board of elections. 14022
Upon transmission of the resolution to the board of elections, 14023
the board of county commissioners shall notify the tax 14024
commissioner in writing of the levy question to be submitted to 14025
the electors. The ballot question shall be the same as that 14026
prescribed in section 5739.022 of the Revised Code. The board of 14027
elections shall notify the board of county commissioners and the 14028
tax commissioner of the result of the election immediately after 14029
the result has been declared. If a majority of the qualified 14030
electors voting on the question of repealing the tax or increase 14031

in the rate of the tax vote for repeal of the tax or repeal of 14032
the increase, the board of county commissioners, on the first 14033
day of a calendar quarter following the expiration of sixty-five 14034
days after the date the board and tax commissioner receive 14035
notice of the result of the election, shall, in the case of a 14036
repeal of the tax, cease to levy the tax, or, in the case of a 14037
repeal of an increase in the rate of the tax, cease to levy the 14038
increased rate and levy the tax at the rate at which it was 14039
imposed immediately prior to the increase in rate. 14040

(3) If a vendor makes a sale in this state by printed 14041
catalog and the consumer computed the tax on the sale based on 14042
local rates published in the catalog, any tax levied or repealed 14043
or rate changed under this section shall not apply to such a 14044
sale until the first day of a calendar quarter following the 14045
expiration of one hundred twenty days from the date of notice by 14046
the tax commissioner pursuant to division (H) of this section. 14047

(C) If a resolution is rejected at a referendum or if a 14048
resolution adopted after January 1, 1982, as an emergency 14049
measure is repealed by the electors pursuant to division (B) (2) 14050
of this section or section 5739.022 of the Revised Code, then 14051
for one year after the date of the election at which the 14052
resolution was rejected or repealed the board of county 14053
commissioners may not adopt any resolution authorized by this 14054
section as an emergency measure. 14055

(D) The board of county commissioners, at any time while a 14056
tax levied under this section is in effect, may by resolution 14057
reduce the rate at which the tax is levied to a lower rate 14058
authorized by this section. Any reduction in the rate at which 14059
the tax is levied shall be made effective on the first day of a 14060
calendar quarter next following the sixty-fifth day after a 14061

certified copy of the resolution is delivered to the tax commissioner. 14062
14063

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code. 14064
14065
14066
14067

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code. 14068
14069
14070

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue. 14071
14072
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Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution. 14078
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14081
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(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and exact reproduction of the original resolution. 14083
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14085
14086

(G) If a board of commissioners intends to adopt a resolution to levy a tax in whole or in part for the purpose of criminal and administrative justice services, the board shall prepare and make available at the first public hearing at which 14087
14088
14089
14090

the resolution is considered a statement containing the 14091
following information: 14092

(1) For each of the two preceding fiscal years, the amount 14093
of expenditures made by the county from the county general fund 14094
for the purpose of criminal and administrative justice services; 14095

(2) For the fiscal year in which the resolution is 14096
adopted, the board's estimate of the amount of expenditures to 14097
be made by the county from the county general fund for the 14098
purpose of criminal and administrative justice services; 14099

(3) For each of the two fiscal years after the fiscal year 14100
in which the resolution is adopted, the board's preliminary plan 14101
for expenditures to be made from the county general fund for the 14102
purpose of criminal and administrative justice services, both 14103
under the assumption that the tax will be imposed for that 14104
purpose and under the assumption that the tax would not be 14105
imposed for that purpose, and for expenditures to be made from 14106
the special fund created under division (E) of this section 14107
under the assumption that the tax will be imposed for that 14108
purpose. 14109

The board shall prepare the statement and the preliminary 14110
plan using the best information available to the board at the 14111
time the statement is prepared. Neither the statement nor the 14112
preliminary plan shall be used as a basis to challenge the 14113
validity of the tax in any court of competent jurisdiction, nor 14114
shall the statement or preliminary plan limit the authority of 14115
the board to appropriate, pursuant to section 5705.38 of the 14116
Revised Code, an amount different from that specified in the 14117
preliminary plan. 14118

(H) Upon receipt from a board of county commissioners of a 14119

certified copy of a resolution required by division (A) or (D) 14120
of this section, or from the board of elections of a notice of 14121
the results of an election required by division (A) or (B) (1) or 14122
(2) of this section, the tax commissioner shall provide notice 14123
of a tax rate change in a manner that is reasonably accessible 14124
to all affected vendors. The commissioner shall provide this 14125
notice at least sixty days prior to the effective date of the 14126
rate change. The commissioner, by rule, may establish the method 14127
by which notice will be provided. 14128

(I) As used in this section, "criminal and administrative 14129
justice services" means the exercise by the county sheriff of 14130
all powers and duties vested in that office by law; the exercise 14131
by the county prosecuting attorney of all powers and duties 14132
vested in that office by law; the exercise by any court in the 14133
county of all powers and duties vested in that court; the 14134
exercise by the clerk of the court of common pleas, any clerk of 14135
a municipal court having jurisdiction throughout the county, or 14136
the clerk of any county court of all powers and duties vested in 14137
the clerk by law except, in the case of the clerk of the court 14138
of common pleas, the titling of motor vehicles or watercraft 14139
pursuant to Chapter 1548. or 4505. of the Revised Code; the 14140
exercise by the county coroner of all powers and duties vested 14141
in that office by law; making payments to any other public 14142
agency or a private, nonprofit agency, the purposes of which in 14143
the county include the diversion, adjudication, detention, or 14144
rehabilitation of criminals or juvenile offenders; the operation 14145
and maintenance of any detention facility, as defined in section 14146
2921.01 of the Revised Code; and the construction, acquisition, 14147
equipping, or repair of such a detention facility, including the 14148
payment of any debt charges incurred in the issuance of 14149
securities pursuant to Chapter 133. of the Revised Code for the 14150

purpose of constructing, acquiring, equipping, or repairing such 14151
a facility. 14152

Sec. 5739.028. As used in this section "sports facility" 14153
and "constructing" have the same meanings as in division (A) (8) 14154
of section 5739.026 of the Revised Code. 14155

This section applies only to taxes levied pursuant to 14156
sections 5739.023 and 5741.022 of the Revised Code by a regional 14157
transit authority created under section 306.31 of the Revised 14158
Code for a continuing period of time and at an aggregate rate, 14159
~~on the effective date of this section July 19, 1995,~~ greater 14160
than one-half of one per cent on every retail sale made in the 14161
territory of the transit authority. 14162

The board of county commissioners of the most populous 14163
county in the territory of a regional transit authority levying 14164
a tax to which this section applies may adopt a resolution not 14165
later than one hundred eighty days after ~~the effective date of~~ 14166
~~this section July 19, 1995,~~ proposing to reduce the rate of such 14167
a tax and to increase by the same extent the rate of tax levied 14168
under sections 5739.026 and 5741.023 of the Revised Code for the 14169
purpose of constructing or renovating a sports facility. The 14170
total reduction in the rate of taxes levied by a transit 14171
authority and the increase in the rate of tax levied for the 14172
purpose of constructing or renovating a sports facility shall 14173
not exceed one-tenth of one per cent upon retail sales made in 14174
the territory of the transit authority; provided, the amount of 14175
taxes received by the county for the purpose of constructing or 14176
renovating a sports facility under this section shall not exceed 14177
four million five hundred thousand dollars in any calendar year. 14178
Any amounts received by a county in a calendar year in excess of 14179
four million five hundred thousand dollars pursuant to this 14180

section shall be paid to the transit authority by the county 14181
within forty-five days following receipt by the county. 14182

The resolution shall specify that the rate of tax levied 14183
by the transit authority will be reduced and that a tax will be 14184
levied at the same rate for the purpose of constructing or 14185
renovating a sports facility; the rate by which the tax levied 14186
by the transit authority will be reduced and by which the tax 14187
levied for the purpose of constructing or renovating a sports 14188
facility will be increased; the date the rates levied for those 14189
purposes will be reduced and increased, respectively; and the 14190
number of years the rate levied by a transit authority will be 14191
reduced and the rate levied for constructing or renovating a 14192
sports facility will be increased. The date the rate levied by 14193
the transit authority will be reduced and the rate levied for 14194
the purpose of constructing or renovating a sports facility will 14195
be increased shall not be earlier than the first day of the 14196
month that begins at least sixty days after the day the election 14197
on the question is conducted unless the board of county 14198
commissioners levies a tax under one or more of sections 14199
307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code on 14200
~~the effective date of this section~~ July 19, 1995, in which case 14201
the date the rate levied by the transit authority will be 14202
reduced and the rate levied for the purpose of constructing or 14203
renovating a sports facility will be increased shall not be 14204
earlier than the first day following the latest day on which any 14205
of the taxes levied under one of those sections on ~~the effective~~ 14206
~~date of this amendment~~ July 19, 1995, may be levied as 14207
prescribed by the resolution levying that tax. The number of 14208
years the rate of the existing tax may be reduced and the rate 14209
of tax may be levied for constructing or renovating a sports 14210
facility may be any number of years as specified in the 14211

resolution, or for a continuing period of time if so specified 14212
in the resolution. 14213

Before a resolution adopted under this section may take 14214
effect, the board of county commissioners shall submit the 14215
resolution to the approval of the electors of the county, and 14216
the resolution shall be approved by a majority of voters voting 14217
on the question. Upon adoption of the resolution, the board of 14218
county commissioners shall certify a copy of the resolution to 14219
the board of elections of the county and to the tax 14220
commissioner, and the board of elections shall submit the 14221
question at a special election held on the date specified by the 14222
board of county commissioners in the resolution, provided that 14223
the election occurs not less than seventy-five days after the 14224
resolution is certified to the board of elections and the 14225
election is not held in ~~February or~~ August of any year. The 14226
board of county commissioners shall certify the copy of the 14227
resolution to the board of elections in the manner prescribed 14228
under section 3505.071 of the Revised Code. The board of 14229
elections shall certify the results of the election to the board 14230
of county commissioners and to the tax commissioner. If the 14231
question is approved by a majority of electors voting on the 14232
question, the rate of tax imposed under sections 5739.023 and 14233
5741.022 of the Revised Code shall be reduced, and the rate of 14234
tax levied for constructing or renovating a sports facility 14235
under sections 5739.026 and 5741.023 of the Revised Code shall 14236
be increased by the same amount, on the date specified in the 14237
resolution. 14238

If revenue from a tax levied under sections 5739.023 and 14239
5741.022 of the Revised Code and subject to reduction under this 14240
section is pledged to the payment of bonds, notes, or notes in 14241
anticipation of bonds, the board of county commissioners 14242

adopting a resolution under this section shall provide 14243
sufficient revenue from the tax for the repayment of debt 14244
charges on those bonds or notes, unless an adequate substitute 14245
for payment of those charges is provided by the transit 14246
authority. 14247

Sec. 5739.03. (A) Except as provided in section 5739.05 or 14248
section 5739.051 of the Revised Code, the tax imposed by or 14249
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 14250
the Revised Code shall be paid by the consumer to the vendor, 14251
and each vendor shall collect from the consumer, as a trustee 14252
for the state of Ohio, the full and exact amount of the tax 14253
payable on each taxable sale, in the manner and at the times 14254
provided as follows: 14255

(1) If the price is, at or prior to the provision of the 14256
service or the delivery of possession of the thing sold to the 14257
consumer, paid in currency passed from hand to hand by the 14258
consumer or the consumer's agent to the vendor or the vendor's 14259
agent, the vendor or the vendor's agent shall collect the tax 14260
with and at the same time as the price; 14261

(2) If the price is otherwise paid or to be paid, the 14262
vendor or the vendor's agent shall, at or prior to the provision 14263
of the service or the delivery of possession of the thing sold 14264
to the consumer, charge the tax imposed by or pursuant to 14265
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 14266
Code to the account of the consumer, which amount shall be 14267
collected by the vendor from the consumer in addition to the 14268
price. Such sale shall be reported on and the amount of the tax 14269
applicable thereto shall be remitted with the return for the 14270
period in which the sale is made, and the amount of the tax 14271
shall become a legal charge in favor of the vendor and against 14272

the consumer. 14273

(B) (1) (a) If any sale is claimed to be exempt under 14274
division (E) of section 5739.01 of the Revised Code or under 14275
section 5739.02 of the Revised Code, with the exception of 14276
divisions (B) (1) to (11), (28), or ~~(56)~~ (55) of section 5739.02 14277
of the Revised Code, or if the consumer claims the transaction 14278
is not a taxable sale due to one or more of the exclusions 14279
provided under divisions (JJ) (1) to (5) of section 5739.01 of 14280
the Revised Code, the consumer must provide to the vendor, and 14281
the vendor must obtain from the consumer, a certificate 14282
specifying the reason that the sale is not legally subject to 14283
the tax. The certificate shall be in such form, and shall be 14284
provided either in a hard copy form or electronic form, as the 14285
tax commissioner prescribes. 14286

(b) A vendor that obtains a fully completed exemption 14287
certificate from a consumer is relieved of liability for 14288
collecting and remitting tax on any sale covered by that 14289
certificate. If it is determined the exemption was improperly 14290
claimed, the consumer shall be liable for any tax due on that 14291
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 14292
Chapter 5741. of the Revised Code. Relief under this division 14293
from liability does not apply to any of the following: 14294

(i) A vendor that fraudulently fails to collect tax; 14295

(ii) A vendor that solicits consumers to participate in 14296
the unlawful claim of an exemption; 14297

(iii) A vendor that accepts an exemption certificate from 14298
a consumer that claims an exemption based on who purchases or 14299
who sells property or a service, when the subject of the 14300
transaction sought to be covered by the exemption certificate is 14301

actually received by the consumer at a location operated by the 14302
vendor in this state, and this state has posted to its web site 14303
an exemption certificate form that clearly and affirmatively 14304
indicates that the claimed exemption is not available in this 14305
state; 14306

(iv) A vendor that accepts an exemption certificate from a 14307
consumer who claims a multiple points of use exemption under 14308
division (D) of section 5739.033 of the Revised Code, if the 14309
item purchased is tangible personal property, other than 14310
prewritten computer software. 14311

(2) The vendor shall maintain records, including exemption 14312
certificates, of all sales on which a consumer has claimed an 14313
exemption, and provide them to the tax commissioner on request. 14314

(3) The tax commissioner may establish an identification 14315
system whereby the commissioner issues an identification number 14316
to a consumer that is exempt from payment of the tax. The 14317
consumer must present the number to the vendor, if any sale is 14318
claimed to be exempt as provided in this section. 14319

(4) If no certificate is provided or obtained within 14320
ninety days after the date on which such sale is consummated, it 14321
shall be presumed that the tax applies. Failure to have so 14322
provided or obtained a certificate shall not preclude a vendor, 14323
within one hundred twenty days after the tax commissioner gives 14324
written notice of intent to levy an assessment, from either 14325
establishing that the sale is not subject to the tax, or 14326
obtaining, in good faith, a fully completed exemption 14327
certificate. 14328

(5) Certificates need not be obtained nor provided where 14329
the identity of the consumer is such that the transaction is 14330

never subject to the tax imposed or where the item of tangible 14331
personal property sold or the service provided is never subject 14332
to the tax imposed, regardless of use, or when the sale is in 14333
interstate commerce. 14334

(6) If a transaction is claimed to be exempt under 14335
division (B) (13) of section 5739.02 of the Revised Code, the 14336
contractor shall obtain certification of the claimed exemption 14337
from the contractee. This certification shall be in addition to 14338
an exemption certificate provided by the contractor to the 14339
vendor. A contractee that provides a certification under this 14340
division shall be deemed to be the consumer of all items 14341
purchased by the contractor under the claim of exemption, if it 14342
is subsequently determined that the exemption is not properly 14343
claimed. The certification shall be in such form as the tax 14344
commissioner prescribes. 14345

(C) As used in this division, "contractee" means a person 14346
who seeks to enter or enters into a contract or agreement with a 14347
contractor or vendor for the construction of real property or 14348
for the sale and installation onto real property of tangible 14349
personal property. 14350

Any contractor or vendor may request from any contractee a 14351
certification of what portion of the property to be transferred 14352
under such contract or agreement is to be incorporated into the 14353
realty and what portion will retain its status as tangible 14354
personal property after installation is completed. The 14355
contractor or vendor shall request the certification by 14356
certified mail delivered to the contractee, return receipt 14357
requested. Upon receipt of such request and prior to entering 14358
into the contract or agreement, the contractee shall provide to 14359
the contractor or vendor a certification sufficiently detailed 14360

to enable the contractor or vendor to ascertain the resulting 14361
classification of all materials purchased or fabricated by the 14362
contractor or vendor and transferred to the contractee. This 14363
requirement applies to a contractee regardless of whether the 14364
contractee holds a direct payment permit under section 5739.031 14365
of the Revised Code or provides to the contractor or vendor an 14366
exemption certificate as provided under this section. 14367

For the purposes of the taxes levied by this chapter and 14368
Chapter 5741. of the Revised Code, the contractor or vendor may 14369
in good faith rely on the contractee's certification. 14370
Notwithstanding division (B) of section 5739.01 of the Revised 14371
Code, if the tax commissioner determines that certain property 14372
certified by the contractee as tangible personal property 14373
pursuant to this division is, in fact, real property, the 14374
contractee shall be considered to be the consumer of all 14375
materials so incorporated into that real property and shall be 14376
liable for the applicable tax, and the contractor or vendor 14377
shall be excused from any liability on those materials. 14378

If a contractee fails to provide such certification upon 14379
the request of the contractor or vendor, the contractor or 14380
vendor shall comply with the provisions of this chapter and 14381
Chapter 5741. of the Revised Code without the certification. If 14382
the tax commissioner determines that such compliance has been 14383
performed in good faith and that certain property treated as 14384
tangible personal property by the contractor or vendor is, in 14385
fact, real property, the contractee shall be considered to be 14386
the consumer of all materials so incorporated into that real 14387
property and shall be liable for the applicable tax, and the 14388
construction contractor or vendor shall be excused from any 14389
liability on those materials. 14390

This division does not apply to any contract or agreement 14391
where the tax commissioner determines as a fact that a 14392
certification under this division was made solely on the 14393
decision or advice of the contractor or vendor. 14394

(D) Notwithstanding division (B) of section 5739.01 of the 14395
Revised Code, whenever the total rate of tax imposed under this 14396
chapter is increased after the date after a construction 14397
contract is entered into, the contractee shall reimburse the 14398
construction contractor for any additional tax paid on tangible 14399
property consumed or services received pursuant to the contract. 14400

(E) A vendor who files a petition for reassessment 14401
contesting the assessment of tax on sales for which the vendor 14402
obtained no valid exemption certificates and for which the 14403
vendor failed to establish that the sales were properly not 14404
subject to the tax during the one-hundred-twenty-day period 14405
allowed under division (B) of this section, may present to the 14406
tax commissioner additional evidence to prove that the sales 14407
were properly subject to a claim of exception or exemption. The 14408
vendor shall file such evidence within ninety days of the 14409
receipt by the vendor of the notice of assessment, except that, 14410
upon application and for reasonable cause, the period for 14411
submitting such evidence shall be extended thirty days. 14412

The commissioner shall consider such additional evidence 14413
in reaching the final determination on the assessment and 14414
petition for reassessment. 14415

(F) Whenever a vendor refunds the price, minus any 14416
separately stated delivery charge, of an item of tangible 14417
personal property on which the tax imposed under this chapter 14418
has been paid, the vendor shall also refund the amount of tax 14419
paid, minus the amount of tax attributable to the delivery 14420

charge. 14421

Sec. 5739.034. (A) As used in this section: 14422

(1) "Air-to-ground radiotelephone service" means a radio 14423
service, as defined in 47 C.F.R. 22.99, in which common carriers 14424
are authorized to offer and provide radio telecommunications 14425
service for hire to subscribers in aircraft. 14426

(2) "Call-by-call basis" means any method of charging for 14427
telecommunications services where the price is measured by 14428
individual calls. 14429

(3) "Customer" means the person or entity that contracts 14430
with a seller of telecommunications service. If the end user of 14431
telecommunications service is not the contracting party, the end 14432
user of the telecommunications service is the customer of the 14433
telecommunications service. "Customer" does not include a 14434
reseller of telecommunications service or of mobile 14435
telecommunications service of a serving carrier under an 14436
agreement to serve the customer outside the home service 14437
provider's licensed service area. 14438

(4) "End user" means the person who utilizes the 14439
telecommunications service. In the case of a person other than 14440
an individual, "end user" means the individual who utilizes the 14441
service on behalf of the person. 14442

(5) "Home service provider" has the same meaning as in the 14443
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 14444
114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 14445

(6) "Place of primary use" means the street address 14446
representative of where the customer's use of the 14447
telecommunications service primarily occurs, which must be the 14448
residential street address or the primary business street 14449

address of the customer. In the case of mobile 14450
telecommunications services, "place of primary use" must be 14451
within the licensed service area of the home service provider. 14452

(7) "Post-paid calling service" means the 14453
telecommunications service obtained by making a payment on a 14454
call-by-call basis either through the use of a credit card or 14455
payment mechanism such as a bank card, travel card, credit card, 14456
or debit card, or by charge made to a telephone number that is 14457
not associated with the origination or termination of the 14458
telecommunications service. "Post-paid calling service" includes 14459
a telecommunications service, except a prepaid wireless calling 14460
service, that would be a prepaid calling service, but for the 14461
fact that it is not exclusively a telecommunications service. 14462

~~(8) "Prepaid calling service" and "prepaid wireless-~~ 14463
~~calling service" have the same meanings as in section 5739.01 of~~ 14464
~~the Revised Code.~~ 14465

~~(9)~~"Service address" means: 14466

(a) The location of the telecommunications equipment to 14467
which a customer's call is charged and from which the call 14468
originates or terminates, regardless of where the call is billed 14469
or paid. 14470

(b) If the location in division (A) ~~(9)~~ (8) (a) of this 14471
section is not known, "service address" means the origination 14472
point of the signal of the telecommunications service first 14473
identified by either the seller's telecommunications system or 14474
in information received by the seller from its service provider, 14475
where the system used to transport such signals is not that of 14476
the seller. 14477

(c) If the locations in divisions (A) ~~(9)~~ (8) (a) and (b) of 14478

this section are not known, "service address" means the location 14479
of the customer's place of primary use. 14480

~~(10)~~(9) "Private communication service" means a 14481
telecommunications service that entitles a customer to exclusive 14482
or priority use of a communications channel or group of channels 14483
between or among termination points, regardless of the manner in 14484
which the channel or channels are connected, and includes 14485
switching capacity, extension lines, stations, and any other 14486
associated services that are provided in connection with the use 14487
of such channel or channels. 14488

(B) The amount of tax due pursuant to sections 5739.02, 14489
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 14490
telecommunications service, information service, or mobile 14491
telecommunications service, is the sum of the taxes imposed 14492
pursuant to those sections at the sourcing location of the sale 14493
as determined under this section. 14494

(C) Except for the telecommunications services described 14495
in division (E) of this section, the sale of telecommunications 14496
service sold on a call-by-call basis shall be sourced to each 14497
level of taxing jurisdiction where the call originates and 14498
terminates in that jurisdiction, or each level of taxing 14499
jurisdiction where the call either originates or terminates and 14500
in which the service address also is located. 14501

(D) Except for the telecommunications services described 14502
in division (E) of this section, a sale of telecommunications 14503
services sold on a basis other than a call-by-call basis shall 14504
be sourced to the customer's place of primary use. 14505

(E) The sale of the following telecommunications services 14506
shall be sourced to each level of taxing jurisdiction, as 14507

follows: 14508

(1) A sale of mobile telecommunications service, other 14509
than air-to-ground radiotelephone service and prepaid calling 14510
service, shall be sourced to the customer's place of primary use 14511
as required by the Mobile Telecommunications Sourcing Act. 14512

(2) A sale of post-paid calling service shall be sourced 14513
to the origination point of the telecommunications signal as 14514
first identified by the service provider's telecommunications 14515
system, or information received by the seller from its service 14516
provider, where the system used to transport such signals is not 14517
that of the seller. 14518

(3) A sale of prepaid calling service or prepaid wireless 14519
calling service shall be sourced under division (C) of section 14520
5739.033 of the Revised Code. But in the case of prepaid 14521
wireless calling service, in lieu of sourcing the sale of the 14522
service under division (C) (5) of section 5739.033 of the Revised 14523
Code, the service provider may elect to source the sale to the 14524
location associated with the mobile telephone number. 14525

(4) A sale of a private communication service shall be 14526
sourced as follows: 14527

(a) Service for a separate charge related to a customer 14528
channel termination point shall be sourced to each level of 14529
jurisdiction in which the customer channel termination point is 14530
located; 14531

(b) Service where all customer channel termination points 14532
are located entirely within one jurisdiction or level of 14533
jurisdiction shall be sourced in the jurisdiction in which the 14534
customer channel termination points are located; 14535

(c) Service for segments of a channel between two customer 14536

channel termination points located in different jurisdictions 14537
and which segments of a channel are separately charged shall be 14538
sourced fifty per cent in each level of jurisdiction in which 14539
the customer channel termination points are located; 14540

(d) Service for segments of a channel located in more than 14541
one jurisdiction or level of jurisdiction and which segments are 14542
not separately billed shall be sourced in each jurisdiction 14543
based on the percentage determined by dividing the number of 14544
customer channel termination points in the jurisdiction by the 14545
total number of customer channel termination points. 14546

Sec. 5739.05. (A) (1) The tax commissioner shall enforce 14547
and administer sections 5739.01 to 5739.31 of the Revised Code, 14548
which are hereby declared to be sections which the commissioner 14549
is required to administer within the meaning of sections 5703.17 14550
to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. 14551
The commissioner may adopt and promulgate, in accordance with 14552
sections 119.01 to 119.13 of the Revised Code, such rules as the 14553
commissioner deems necessary to administer sections 5739.01 to 14554
5739.31 of the Revised Code. 14555

(2) On or before the first day of May of each year, the 14556
commissioner shall make available to vendors a notice explaining 14557
the three-day exemption period required under division (B) ~~(56)~~ 14558
(55) of section 5739.02 of the Revised Code. 14559

(B) Upon application, the commissioner may authorize a 14560
vendor to pay on a predetermined basis the tax levied by or 14561
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 14562
the Revised Code upon sales of things produced or distributed or 14563
services provided by such vendor, and the commissioner may waive 14564
the collection of the tax from the consumer. The commissioner 14565
shall not grant such authority unless the commissioner finds 14566

that the granting of the authority would improve compliance and 14567
increase the efficiency of the administration of the tax. The 14568
person to whom such authority is granted shall post a notice, if 14569
required by the commissioner, at the location where the product 14570
is offered for sale that the tax is included in the selling 14571
price. The commissioner may adopt rules to administer this 14572
division. 14573

(C) Upon application, the commissioner may authorize a 14574
vendor to remit, on the basis of a prearranged agreement under 14575
this division, the tax levied by section 5739.02 or pursuant to 14576
section 5739.021, 5739.023, or 5739.026 of the Revised Code. The 14577
proportions and ratios in a prearranged agreement shall be 14578
determined either by a test check conducted by the commissioner 14579
under terms and conditions agreed to by the commissioner and the 14580
vendor or by any other method agreed upon by the vendor and the 14581
commissioner. If the parties are unable to agree to the terms 14582
and conditions of the test check or other method, the 14583
application shall be denied. 14584

If used, the test check shall determine the proportion 14585
that taxable retail sales bear to all of the vendor's retail 14586
sales and the ratio which the tax required to be collected under 14587
sections 5739.02, 5739.021, 5739.023, and 5739.026 of the 14588
Revised Code bears to the receipts from the vendor's taxable 14589
retail sales. 14590

The vendor's liability for remitting the tax shall be 14591
based solely upon the proportions and ratios established in the 14592
agreement until such time that the vendor or the commissioner 14593
believes that the nature of the vendor's business has so changed 14594
as to make the agreement no longer representative. The 14595
commissioner may give notice to the vendor at any time that the 14596

authorization is revoked or the vendor may notify the 14597
commissioner that the vendor no longer elects to report under 14598
the authorization. Such notice shall be delivered to the other 14599
party personally or by registered mail. The revocation or 14600
cancellation is effective the last day of the month in which the 14601
vendor or the commissioner receives the notice. 14602

Sec. 5739.08. ~~The levy of an excise tax on transactions by~~ 14603
~~which lodging by a hotel is or is to be furnished to transient~~ 14604
~~guests pursuant to section 5739.02 and division (B) of section~~ 14605
~~5739.01 of the Revised Code does not prevent any of the~~ 14606
~~following:~~ 14607

(A) A municipal corporation or township ~~from levying~~ may 14608
levy an excise tax for any lawful purpose not to exceed three 14609
per cent on transactions by which lodging by a hotel is or is to 14610
be furnished to transient guests in addition to the tax levied 14611
by section 5739.02 of the Revised Code. If a municipal 14612
corporation or township repeals a tax imposed under division (A) 14613
of this section, and a county in which the municipal corporation 14614
or township has territory has a tax imposed under division ~~(C)~~ 14615
(M) of section 5739.09 of the Revised Code in effect, the 14616
municipal corporation or township may not reimpose its tax as 14617
long as that county tax remains in effect. A municipal 14618
corporation or township in which a tax is levied under division 14619
(B) (2) of section 351.021 of the Revised Code may not increase 14620
the rate of its tax levied under division (A) of this section to 14621
any rate that would cause the total taxes levied under both of 14622
those divisions to exceed three per cent on any lodging 14623
transaction within the municipal corporation or township. 14624

~~(B) A municipal corporation or a township from levying an~~ 14625
~~additional excise tax not to exceed three per cent on such~~ 14626

~~transactions pursuant to division (B) of section 5739.09 of the Revised Code. Such tax is in addition to any tax imposed under division (A) of this section.~~ 14627
14628
14629

~~(C) A county from levying an excise tax pursuant to division (A) of section 5739.09 of the Revised Code;~~ 14630
14631

~~(D) A county from levying an excise tax not to exceed three per cent of such transactions pursuant to division (C) of section 5739.09 of the Revised Code. Such a tax is in addition to any tax imposed under division (C) of this section.~~ 14632
14633
14634
14635

~~(E) A convention facilities authority, as defined in division (A) of section 351.01 of the Revised Code, from levying the excise taxes provided for in divisions (B) and (C) of section 351.021 of the Revised Code;~~ 14636
14637
14638
14639

~~(F) A county from levying an excise tax not to exceed one and one half per cent of such transactions pursuant to division (D) of section 5739.09 of the Revised Code. Such tax is in addition to any tax imposed under division (C) or (D) of this section.~~ 14640
14641
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14644

~~(G) A county from levying an excise tax not to exceed one and one half per cent of such transactions pursuant to division (E) of section 5739.09 of the Revised Code. Such a tax is in addition to any tax imposed under division (C), (D), or (F) of this section.~~ 14645
14646
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14648
The legislative authority of a municipal 14649
corporation or the board of trustees of a township that is not 14650
wholly or partly located in a county that has in effect a 14651
resolution levying an excise tax pursuant to division (A) of 14652
section 5739.09 of the Revised Code may, by ordinance or 14653
resolution, levy an additional excise tax not to exceed three 14654
per cent on transactions by which lodging by a hotel is or is to 14655

be furnished to transient guests. The legislative authority of 14656
the municipal corporation or the board of trustees of the 14657
township shall deposit at least fifty per cent of the revenue 14658
from the tax levied pursuant to this division into a separate 14659
fund, which shall be spent solely to make contributions to 14660
convention and visitors' bureaus operating within the county in 14661
which the municipal corporation or township is wholly or partly 14662
located, and the balance of that revenue shall be deposited in 14663
the general fund. The municipal corporation or township shall 14664
establish all regulations necessary to provide for the 14665
administration and allocation of the tax. The regulations may 14666
prescribe the time for payment of the tax, and may provide for 14667
the imposition of a penalty or interest, or both, for late 14668
payments, provided that the penalty does not exceed ten per cent 14669
of the amount of tax due, and the rate at which interest accrues 14670
does not exceed the rate per annum prescribed pursuant to 14671
section 5703.47 of the Revised Code. The levy of a tax under 14672
this division is in addition to any tax imposed on the same 14673
transaction by a municipal corporation or a township under 14674
division (A) of this section. 14675

(C) (1) As used in division (C) of this section, "cost" has 14676
the same meaning as in section 351.01 of the Revised Code, and 14677
"convention center" has the same meaning as in section 307.695 14678
of the Revised Code. 14679

(2) The legislative authority of the most populous 14680
municipal corporation located wholly or partly in a county in 14681
which the board of county commissioners has levied a tax under 14682
division (D) of section 5739.09 of the Revised Code may amend, 14683
on or before September 30, 2002, that municipal corporation's 14684
ordinance or resolution that levies an excise tax on 14685
transactions by which lodging by a hotel is or is to be 14686

furnished to transient guests, to provide for all of the 14687
following: 14688

(a) That the rate of the tax shall be increased by not 14689
more than an additional one per cent on each transaction; 14690

(b) That all of the revenue from the increase in rate 14691
shall be pledged and contributed to a convention facilities 14692
authority established by the board of county commissioners under 14693
Chapter 351. of the Revised Code on or before May 15, 2002, and 14694
be used to pay costs of constructing, expanding, maintaining, 14695
operating, or promoting a convention center in the county, 14696
including paying bonds, or notes issued in anticipation of 14697
bonds, as provided by that chapter; 14698

(c) That the increase in rate shall not be subject to 14699
diminution by initiative or referendum or by law while any 14700
bonds, or notes in anticipation of bonds, issued by the 14701
authority under Chapter 351. of the Revised Code to which the 14702
revenue is pledged, remain outstanding in accordance with their 14703
terms, unless provision is made by law, by the board of county 14704
commissioners, or by the legislative authority, for an adequate 14705
substitute therefor that is satisfactory to the trustee if a 14706
trust agreement secures the bonds. 14707

(3) The legislative authority of a municipal corporation 14708
that, pursuant to division (C) (2) of this section, has amended 14709
its ordinance or resolution to increase the rate of the tax 14710
authorized by division (B) of this section may further amend the 14711
ordinance or resolution to provide that the revenue referred to 14712
in division (C) (2) (b) of this section shall be pledged and 14713
contributed both to a convention facilities authority to pay the 14714
costs of constructing, expanding, maintaining, or operating one 14715
or more convention centers in the county, including paying 14716

bonds, or notes issued in anticipation of bonds, as provided in 14717
Chapter 351. of the Revised Code, and to a convention and 14718
visitors' bureau to pay the costs of promoting one or more 14719
convention centers in the county. 14720

(D) As used in division (D) of this section, "eligible 14721
municipal corporation" means a municipal corporation that, on 14722
September 29, 2017, levied a tax under division (B) of this 14723
section at a rate of three per cent and that is located in a 14724
county that, on that date, levied a tax under division (A) of 14725
section 5739.09 of the Revised Code at a rate of three per cent 14726
and that has, according to the most recent federal decennial 14727
census, a population exceeding three hundred thousand but not 14728
greater than three hundred fifty thousand. 14729

The legislative authority of an eligible municipal 14730
corporation may amend, on or before December 31, 2017, that 14731
municipal corporation's ordinance or resolution that levies an 14732
excise tax on transactions by which lodging by a hotel is or is 14733
to be furnished to transient guests, to provide for the 14734
following: 14735

(1) That the rate of the tax shall be increased by not 14736
more than an additional three per cent on each transaction; 14737

(2) That all of the revenue from the increase in rate 14738
shall be used by the municipal corporation for economic 14739
development and tourism-related purposes. 14740

Sec. 5739.09. (A) (1) A board of county commissioners may, 14741
by resolution adopted by a majority of the members of the board, 14742
levy an excise tax not to exceed three per cent on transactions 14743
by which lodging by a hotel is or is to be furnished to 14744
transient guests. The board shall establish all regulations 14745

necessary to provide for the administration and allocation of 14746
the tax. The regulations may prescribe the time for payment of 14747
the tax, and may provide for the imposition of a penalty or 14748
interest, or both, for late payments, provided that the penalty 14749
does not exceed ten per cent of the amount of tax due, and the 14750
rate at which interest accrues does not exceed the rate per 14751
annum prescribed pursuant to section 5703.47 of the Revised 14752
Code. Except as otherwise provided in ~~divisions (A) (2), (3),~~ 14753
~~(4), (5), (6), (7), (8), (9), (10), (11), and (12)~~ of this 14754
section, the regulations shall provide, after deducting the real 14755
and actual costs of administering the tax, for the return to 14756
each municipal corporation or township that does not levy an 14757
excise tax on the transactions, a uniform percentage of the tax 14758
collected in the municipal corporation or in the unincorporated 14759
portion of the township from each transaction, not to exceed 14760
thirty-three and one-third per cent. ~~The~~ Except as provided in 14761
this section, the remainder of the revenue arising from the tax 14762
shall be deposited in a separate fund and shall be spent solely 14763
to make contributions to the convention and visitors' bureau 14764
operating within the county, including a pledge and contribution 14765
of any portion of the remainder pursuant to an agreement 14766
authorized by section 307.678 or 307.695 of the Revised Code, ~~—~~ 14767
~~provided that if~~ 14768

(2) If the board of county commissioners of an eligible 14769
county as defined in section 307.678 or 307.695 of the Revised 14770
Code adopts a resolution amending a resolution levying a tax 14771
under ~~this~~ division (A) of this section to provide that revenue 14772
from the tax shall be used by the board as described in either 14773
division (D) of section 307.678 or division (H) of section 14774
307.695 of the Revised Code, the remainder of the revenue shall 14775
be used as described in the resolution making that amendment. 14776

~~Except~~ 14777

(3) Except as provided in division ~~(A) (2), (3), (4), (5),~~ 14778
~~(6), (7), (8), (9), (10), or (11)~~ (B), (C), (D), (E), (F), (G), 14779
(H), (I), (J), (K), or (H) (Q) of this section, on and after May 14780
10, 1994, a board of county commissioners may not levy an excise 14781
tax pursuant to ~~this~~ division (A) of this section in any 14782
municipal corporation or township located wholly or partly 14783
within the county that has in effect an ordinance or resolution 14784
levying an excise tax pursuant to division (B) of ~~this~~ section 14785
5739.08 of the Revised Code. ~~The~~ 14786

(4) The board of a county that has levied a tax under 14787
division ~~(C) (M)~~ of this section may, by resolution adopted 14788
within ninety days after July 15, 1985, by a majority of the 14789
members of the board, amend the resolution levying a tax under 14790
~~this~~ division (A) of this section to provide for a portion of 14791
that tax to be pledged and contributed in accordance with an 14792
agreement entered into under section 307.695 of the Revised 14793
Code. A tax, any revenue from which is pledged pursuant to such 14794
an agreement, shall remain in effect at the rate at which it is 14795
imposed for the duration of the period for which the revenue 14796
from the tax has been so pledged. 14797

(5) The board of county commissioners of an eligible 14798
county as defined in section 307.695 of the Revised Code may, by 14799
resolution adopted by a majority of the members of the board, 14800
amend a resolution levying a tax under ~~this~~ division (A) of this 14801
section to provide that the revenue from the tax shall be used 14802
by the board as described in division (H) of section 307.695 of 14803
the Revised Code, in which case the tax shall remain in effect 14804
at the rate at which it was imposed for the duration of any 14805
agreement entered into by the board under section 307.695 of the 14806

Revised Code, the duration during which any securities issued by 14807
the board under that section are outstanding, or the duration of 14808
the period during which the board owns a project as defined in 14809
section 307.695 of the Revised Code, whichever duration is 14810
longest. 14811

(6) The board of county commissioners of an eligible 14812
county as defined in section 307.678 of the Revised Code may, by 14813
resolution, amend a resolution levying a tax under ~~this~~ division 14814
(A) of this section to provide that revenue from the tax, not to 14815
exceed five hundred thousand dollars each year, may be used as 14816
described in division (E) of section 307.678 of the Revised 14817
Code. 14818

(7) Notwithstanding division (A) ~~(1)~~ of this section, the 14819
board of county commissioners of a county described in division 14820
~~(A) (8) (a)~~ (H) (1) of this section may, by resolution, amend a 14821
resolution levying a tax under ~~this~~ division (A) of this section 14822
to provide that all or a portion of the revenue from the tax, 14823
including any revenue otherwise required to be returned to 14824
townships or municipal corporations under ~~this~~ that division, 14825
may be used or pledged for the payment of debt service on 14826
securities issued to pay the costs of constructing, operating, 14827
and maintaining sports facilities described in division ~~(A) (8)~~ 14828
~~(b)~~ (H) (2) of this section. 14829

(8) The board of county commissioners of a county 14830
described in division ~~(A) (9)~~ (I) of this section may, by 14831
resolution, amend a resolution levying a tax under ~~this~~ division 14832
(A) of this section to provide that all or a portion of the 14833
revenue from the tax may be used for the purposes described in 14834
section 307.679 of the Revised Code. 14835

~~(2)~~ (B) A board of county commissioners that levies an 14836

excise tax under division (A) ~~(1)~~ of this section on June 30, 14837
1997, at a rate of three per cent, and that has pledged revenue 14838
from the tax to an agreement entered into under section 307.695 14839
of the Revised Code or, in the case of the board of county 14840
commissioners of an eligible county as defined in section 14841
307.695 of the Revised Code, has amended a resolution levying a 14842
tax under division ~~(C)~~ (M) of this section to provide that 14843
proceeds from the tax shall be used by the board as described in 14844
division (H) of section 307.695 of the Revised Code, may, at any 14845
time by a resolution adopted by a majority of the members of the 14846
board, amend the resolution levying a tax under division (A) ~~(1)~~ 14847
of this section to provide for an increase in the rate of that 14848
tax up to seven per cent on each transaction; to provide that 14849
revenue from the increase in the rate shall be used as described 14850
in division (H) of section 307.695 of the Revised Code or be 14851
spent solely to make contributions to the convention and 14852
visitors' bureau operating within the county to be used 14853
specifically for promotion, advertising, and marketing of the 14854
region in which the county is located; and to provide that the 14855
rate in excess of the three per cent levied under division (A) 14856
~~(1)~~ of this section shall remain in effect at the rate at which 14857
it is imposed for the duration of the period during which any 14858
agreement is in effect that was entered into under section 14859
307.695 of the Revised Code by the board of county commissioners 14860
levying a tax under division (A) ~~(1)~~ of this section, the 14861
duration of the period during which any securities issued by the 14862
board under division (I) of section 307.695 of the Revised Code 14863
are outstanding, or the duration of the period during which the 14864
board owns a project as defined in section 307.695 of the 14865
Revised Code, whichever duration is longest. The amendment also 14866
shall provide that no portion of that revenue need be returned 14867
to townships or municipal corporations as would otherwise be 14868

required under division (A) ~~(1)~~ of this section. 14869

~~(3)~~ (C) (1) As used in division (C) of this section, "cost" 14870
and "facility" have the same meanings as in section 351.01 of 14871
the Revised Code, and "convention center" has the same meaning 14872
as in section 307.695 of the Revised Code. 14873

(2) A board of county commissioners that levies a tax 14874
under division (A) ~~(1)~~ of this section on March 18, 1999, at a 14875
rate of three per cent may, by resolution adopted not later than 14876
forty-five days after March 18, 1999, amend the resolution 14877
levying the tax to provide for all of the following: 14878

(a) That the rate of the tax shall be increased by not 14879
more than an additional four per cent on each transaction; 14880

(b) That all of the revenue from the increase in the rate 14881
shall be pledged and contributed to a convention facilities 14882
authority established by the board of county commissioners under 14883
Chapter 351. of the Revised Code on or before November 15, 1998, 14884
and used to pay costs of constructing, maintaining, operating, 14885
and promoting a facility in the county, including paying bonds, 14886
or notes issued in anticipation of bonds, as provided by that 14887
chapter; 14888

(c) That no portion of the revenue arising from the 14889
increase in rate need be returned to municipal corporations or 14890
townships as otherwise required under division (A) ~~(1)~~ of this 14891
section; 14892

(d) That the increase in rate shall not be subject to 14893
diminution by initiative or referendum or by law while any 14894
bonds, or notes in anticipation of bonds, issued by the 14895
authority under Chapter 351. of the Revised Code to which the 14896
revenue is pledged, remain outstanding in accordance with their 14897

terms, unless provision is made by law or by the board of county commissioners for an adequate substitute therefor that is satisfactory to the trustee if a trust agreement secures the bonds.

(3) Division ~~(A) (3)~~ (C) of this section does not apply to the board of county commissioners of any county in which a convention center or facility exists or is being constructed on November 15, 1998, or of any county in which a convention facilities authority levies a tax pursuant to section 351.021 of the Revised Code on that date.

~~As used in division (A) (3) of this section, "cost" and "facility" have the same meanings as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.~~

~~(4) (a)~~ (D) (1) As used in division (D) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.

(2) A board of county commissioners that levies a tax under division (A) ~~(1)~~ of this section on June 30, 2002, at a rate of three per cent may, by resolution adopted not later than September 30, 2002, amend the resolution levying the tax to provide for all of the following:

~~(i)~~ (a) That the rate of the tax shall be increased by not more than an additional three and one-half per cent on each transaction;

~~(ii)~~ (b) That all of the revenue from the increase in rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under

Chapter 351. of the Revised Code on or before May 15, 2002, and 14927
be used to pay costs of constructing, expanding, maintaining, 14928
operating, or promoting a convention center in the county, 14929
including paying bonds, or notes issued in anticipation of 14930
bonds, as provided by that chapter; 14931

~~(iii)~~ (c) That no portion of the revenue arising from the 14932
increase in rate need be returned to municipal corporations or 14933
townships as otherwise required under division (A) ~~(1)~~ of this 14934
section; 14935

~~(iv)~~ (d) That the increase in rate shall not be subject to 14936
diminution by initiative or referendum or by law while any 14937
bonds, or notes in anticipation of bonds, issued by the 14938
authority under Chapter 351. of the Revised Code to which the 14939
revenue is pledged, remain outstanding in accordance with their 14940
terms, unless provision is made by law or by the board of county 14941
commissioners for an adequate substitute therefor that is 14942
satisfactory to the trustee if a trust agreement secures the 14943
bonds. 14944

~~(b)~~ (3) Any board of county commissioners that, pursuant 14945
to division ~~(A) (4) (a)~~ (D) (2) of this section, has amended a 14946
resolution levying the tax authorized by division (A) ~~(1)~~ of this 14947
section may further amend the resolution to provide that the 14948
revenue referred to in division ~~(A) (4) (a) (ii)~~ (D) (2) (b) of this 14949
section shall be pledged and contributed both to a convention 14950
facilities authority to pay the costs of constructing, 14951
expanding, maintaining, or operating one or more convention 14952
centers in the county, including paying bonds, or notes issued 14953
in anticipation of bonds, as provided in Chapter 351. of the 14954
Revised Code, and to a convention and visitors' bureau to pay 14955
the costs of promoting one or more convention centers in the 14956

county. 14957

~~As used in division (A) (4) of this section, "cost" has the same meaning as in section 351.01 of the Revised Code, and "convention center" has the same meaning as in section 307.695 of the Revised Code.~~ 14958
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~~(5) (a) (E) (1)~~ As used in division ~~(A) (5) (E)~~ of this section: 14962
14963

~~(i) (a)~~ "Port authority" means a port authority created under Chapter 4582. of the Revised Code. 14964
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~~(ii) (b)~~ "Port authority military-use facility" means port authority facilities on which or adjacent to which is located an installation of the armed forces of the United States, a reserve component thereof, or the national guard and at least part of which is made available for use, for consideration, by the armed forces of the United States, a reserve component thereof, or the national guard. 14966
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~~(b) (2)~~ For the purpose of contributing revenue to pay operating expenses of a port authority that operates a port authority military-use facility, the board of county commissioners of a county that created, participated in the creation of, or has joined such a port authority may do one or both of the following: 14973
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~~(i) (a)~~ Amend a resolution previously adopted under division (A) ~~(1)~~ of this section to designate some or all of the revenue from the tax levied under the resolution to be used for that purpose, notwithstanding that division; 14979
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~~(ii) (b)~~ Amend a resolution previously adopted under division (A) ~~(1)~~ of this section to increase the rate of the tax by not more than an additional two per cent and use the revenue 14983
14984
14985

from the increase exclusively for that purpose. 14986

~~(e)~~ (3) If a board of county commissioners amends a 14987
resolution to increase the rate of a tax as authorized in 14988
division ~~(A) (5) (b) (ii)~~ (E) (2) (b) of this section, the board also 14989
may amend the resolution to specify that the increase in rate of 14990
the tax does not apply to "hotels," as otherwise defined in 14991
section 5739.01 of the Revised Code, having fewer rooms used for 14992
the accommodation of guests than a number of rooms specified by 14993
the board. 14994

~~(6)~~ (F) (1) A board of county commissioners of a county 14995
organized under a county charter adopted pursuant to Article X, 14996
Section 3, Ohio Constitution, and that levies an excise tax 14997
under division (A) ~~(1)~~ of this section at a rate of three per 14998
cent and levies an additional excise tax under division ~~(E)~~ (O) 14999
of this section at a rate of one and one-half per cent may, by 15000
resolution adopted not later than January 1, 2008, by a majority 15001
of the members of the board, amend the resolution levying a tax 15002
under division (A) ~~(1)~~ of this section to provide for an increase 15003
in the rate of that tax by not more than an additional one per 15004
cent on transactions by which lodging by a hotel is or is to be 15005
furnished to transient guests. Notwithstanding divisions (A) ~~(1)~~ 15006
and ~~(E)~~ (O) of this section, the resolution shall provide that 15007
all of the revenue from the increase in rate, after deducting 15008
the real and actual costs of administering the tax, shall be 15009
used to pay the costs of improving, expanding, equipping, 15010
financing, or operating a convention center by a convention and 15011
visitors' bureau in the county. ~~The~~ 15012

(2) The increase in rate shall remain in effect for the 15013
period specified in the resolution, not to exceed ten years, and 15014
may be extended for an additional period of time not to exceed 15015

ten years thereafter by a resolution adopted by a majority of 15016
the members of the board. ~~The~~ 15017

(3) ~~The~~ increase in rate shall be subject to the 15018
regulations adopted under division (A) ~~(1)~~ of this section, 15019
except that the resolution may provide that no portion of the 15020
revenue from the increase in the rate shall be returned to 15021
townships or municipal corporations as would otherwise be 15022
required under that division. 15023

~~(7)~~ (G) (1) Division ~~(A) (7)~~ (G) of this section applies 15024
only to a county with a population greater than sixty-five 15025
thousand and less than seventy thousand according to the most 15026
recent federal decennial census and in which, on December 31, 15027
2006, an excise tax is levied under division (A) ~~(1)~~ of this 15028
section at a rate not less than and not greater than three per 15029
cent, and in which the most recent increase in the rate of that 15030
tax was enacted or took effect in November 1984. 15031

(2) The board of county commissioners of a county to which 15032
~~this~~ division (G) of this section applies, by resolution adopted 15033
by a majority of the members of the board, may increase the rate 15034
of the tax by not more than one per cent on transactions by 15035
which lodging by a hotel is or is to be furnished to transient 15036
guests. The increase in rate shall be for the purpose of paying 15037
expenses deemed necessary by the convention and visitors' bureau 15038
operating in the county to promote travel and tourism. ~~The~~ 15039

(3) ~~The~~ increase in rate shall remain in effect for the 15040
period specified in the resolution, not to exceed twenty years, 15041
provided that the increase in rate may not continue beyond the 15042
time when the purpose for which the increase is levied ceases to 15043
exist. If revenue from the increase in rate is pledged to the 15044
payment of debt charges on securities, the increase in rate is 15045

not subject to diminution by initiative or referendum or by law 15046
for so long as the securities are outstanding, unless provision 15047
is made by law or by the board of county commissioners for an 15048
adequate substitute for that revenue that is satisfactory to the 15049
trustee if a trust agreement secures payment of the debt 15050
charges. ~~The~~ 15051

(4) ~~The~~ increase in rate shall be subject to the 15052
regulations adopted under division (A) ~~(1)~~ of this section, 15053
except that the resolution may provide that no portion of the 15054
revenue from the increase in the rate shall be returned to 15055
townships or municipal corporations as would otherwise be 15056
required under division (A) ~~(1)~~ of this section. ~~A~~ 15057

(5) ~~A~~ resolution adopted under division ~~(A) (7)~~ (G) of this 15058
section is subject to referendum under sections 305.31 to 305.99 15059
of the Revised Code. 15060

~~(8) (a)~~ (H) (1) Division ~~(A) (8)~~ (H) of this section applies 15061
only to a county satisfying all of the following: 15062

~~(i)~~ (a) The population of the county is greater than one 15063
hundred seventy-five thousand and less than two hundred twenty- 15064
five thousand according to the most recent federal decennial 15065
census. 15066

~~(ii)~~ (b) An amusement park with an average yearly 15067
attendance in excess of two million guests is located in the 15068
county. 15069

~~(iii)~~ (c) On December 31, 2014, an excise tax was levied 15070
in the county under division (A) ~~(1)~~ of this section at a rate of 15071
three per cent. 15072

~~(b)~~ (2) The board of county commissioners of a county to 15073
which ~~this~~ division (H) of this section applies, by resolution 15074

adopted by a majority of the members of the board, may increase 15075
the rate of the tax by not more than one per cent on 15076
transactions by which lodging by a hotel is or is to be 15077
furnished to transient guests. The increase in rate shall be 15078
used to pay the costs of constructing and maintaining facilities 15079
owned by the county or by a port authority created under Chapter 15080
4582. of the Revised Code, and designed to host sporting events 15081
and expenses deemed necessary by the convention and visitors' 15082
bureau operating in the county to promote travel and tourism 15083
with reference to the sports facilities, and to pay or pledge to 15084
the payment of debt service on securities issued to pay the 15085
costs of constructing, operating, and maintaining the sports 15086
facilities. ~~The~~ 15087

(3) ~~The~~ increase in rate shall remain in effect for the 15088
period specified in the resolution. If revenue from the increase 15089
in rate is pledged to the payment of debt charges on securities, 15090
the increase in rate is not subject to diminution by initiative 15091
or referendum or by law for so long as the securities are 15092
outstanding, unless provision is made by law or by the board of 15093
county commissioners for an adequate substitute for that revenue 15094
that is satisfactory to the trustee if a trust agreement secures 15095
payment of the debt charges. ~~The~~ 15096

(4) ~~The~~ increase in rate shall be subject to the 15097
regulations adopted under division (A) ~~(1)~~ of this section, 15098
except that the resolution may provide that no portion of the 15099
revenue from the increase in the rate shall be returned to 15100
townships or municipal corporations as would otherwise be 15101
required under division (A) ~~(1)~~ of this section. 15102

~~(9)~~ (1) ~~The~~ board of county commissioners of a county 15103
with a population greater than seventy-five thousand and less 15104

than seventy-eight thousand, by resolution adopted by a majority 15105
of the members of the board not later than October 15, 2015, may 15106
increase the rate of the tax by not more than one per cent on 15107
transactions by which lodging by a hotel is or is to be 15108
furnished to transient guests. The increase in rate shall be for 15109
the purposes described in section 307.679 of the Revised Code or 15110
for the promotion of travel and tourism in the county, including 15111
travel and tourism to sports facilities. ~~The~~ 15112

(2) ~~The~~ increase in rate shall remain in effect for the 15113
period specified in the resolution and as necessary to fulfill 15114
the county's obligations under a cooperative agreement entered 15115
into under section 307.679 of the Revised Code. If the 15116
resolution is adopted by the board before September 29, 2015, 15117
but after that enactment becomes law, the increase in rate shall 15118
become effective beginning on September 29, 2015. If revenue 15119
from the increase in rate is pledged to the payment of debt 15120
charges on securities, or to substitute for other revenues 15121
pledged to the payment of such debt, the increase in rate is not 15122
subject to diminution by initiative or referendum or by law for 15123
so long as the securities are outstanding, unless provision is 15124
made by law or by the board of county commissioners for an 15125
adequate substitute for that revenue that is satisfactory to the 15126
trustee if a trust agreement secures payment of the debt 15127
charges. ~~The~~ 15128

(3) ~~The~~ increase in rate shall be subject to the 15129
regulations adopted under division (A) ~~(1)~~ of this section, 15130
except that no portion of the revenue from the increase in the 15131
rate shall be returned to townships or municipal corporations as 15132
would otherwise be required under division (A) ~~(1)~~ of this 15133
section. 15134

~~(10)~~(J) (1) Division ~~(A)~~~~(10)~~(J) of this section applies 15135
only to counties satisfying either of the following: 15136

(a) A county that, on July 1, 2015, does not levy an 15137
excise tax under division (A)~~(1)~~ of this section and that has a 15138
population of at least thirty-nine thousand but not more than 15139
forty thousand according to the 2010 federal decennial census; 15140

(b) A county that, on July 1, 2015, levies an excise tax 15141
under division (A)~~(1)~~ of this section at a rate of three per 15142
cent and that has a population of at least seventy-one thousand 15143
but not more than seventy-five thousand according to 2010 15144
federal decennial census. 15145

(2) The board of county commissioners of a county to which 15146
division ~~(A)~~~~(10)~~(J) of this section applies, by resolution 15147
adopted by a majority of the members of the board, may levy an 15148
excise tax at a rate not to exceed three per cent on 15149
transactions by which lodging by a hotel is or is to be 15150
furnished to transient guests for the purpose of acquiring, 15151
constructing, equipping, or repairing permanent improvements, as 15152
defined in section 133.01 of the Revised Code. ~~If~~ 15153

(3) ~~If~~ the board does not levy a tax under division (A)~~(1)~~ 15154
of this section, the board shall establish regulations necessary 15155
to provide for the administration of the tax, which may 15156
prescribe the time for payment of the tax and the imposition of 15157
penalty or interest subject to the limitations on penalty and 15158
interest provided in division (A)~~(1)~~ of this section. No portion 15159
of the revenue shall be returned to townships or municipal 15160
corporations in the county unless otherwise provided by 15161
resolution of the board. ~~The~~ 15162

(4) ~~The~~ tax shall apply throughout the territory of the 15163

county, including in any township or municipal corporation 15164
levying an excise tax under ~~division (B) of this section or~~ 15165
division (A) or (B) of section 5739.08 of the Revised Code. The 15166
levy of the tax is subject to referendum as provided under 15167
section 305.31 of the Revised Code. 15168

(5) The tax shall remain in effect for the period 15169
specified in the resolution. If revenue from the increase in 15170
rate is pledged to the payment of debt charges on securities, 15171
the increase in rate is not subject to diminution by initiative 15172
or referendum or by law for so long as the securities are 15173
outstanding unless provision is made by law or by the board for 15174
an adequate substitute for that revenue that is satisfactory to 15175
the trustee if a trust agreement secures payment of the debt 15176
charges. 15177

~~(11)~~ (K) (1) The board of county commissioners of an 15178
eligible county, as defined in section 307.678 of the Revised 15179
Code, that levies an excise tax under division (A) ~~(1)~~ of this 15180
section on July 1, 2017, at a rate of three per cent may, by 15181
resolution adopted by a majority of the members of the board, 15182
amend the resolution levying the tax to increase the rate of the 15183
tax by not more than an additional three per cent on each 15184
transaction. ~~No~~ 15185

(2) No portion of the revenue shall be returned to 15186
townships or municipal corporations in the county unless 15187
otherwise provided by resolution of the board. Otherwise, the 15188
revenue from the increase in the rate shall be distributed and 15189
used in the same manner described under division (A) ~~(1)~~ of this 15190
section or distributed or used to provide credit enhancement 15191
facilities as authorized under section 307.678 of the Revised 15192
Code. ~~The~~ 15193

(3) The increase in rate shall remain in effect for the 15194
period specified in the resolution. If revenue from the increase 15195
in rate is pledged to the payment of debt charges on securities, 15196
the increase in rate is not subject to diminution by initiative 15197
or referendum or by law for so long as the securities are 15198
outstanding unless provision is made by law or by the board for 15199
an adequate substitute for that revenue that is satisfactory to 15200
the trustee if a trust agreement secures payment of the debt 15201
charges. 15202

~~(12)(a)~~ (L) (1) As used in ~~this~~ division (L) of this 15203
section: 15204

~~(i)(a)~~ "Eligible county" means a county that has a 15205
population greater than one hundred ninety thousand and less 15206
than two hundred thousand according to the 2010 federal 15207
decennial census and that levies an excise tax under division 15208
(A) ~~(1)~~ of this section at a rate of three per cent. 15209

~~(ii)(b)~~ "Professional sports facility" means a sports 15210
facility that is intended to house major or minor league 15211
professional athletic teams, including a stadium, together with 15212
all parking facilities, walkways, and other auxiliary 15213
facilities, real and personal property, property rights, 15214
easements, and interests that may be appropriate for, or used in 15215
connection with, the operation of the facility. 15216

~~(b)(2)~~ Subject to division ~~(A)(12)(c)~~ (L) (3) of this 15217
section, the board of county commissioners of an eligible 15218
county, by resolution adopted by a majority of the members of 15219
the board, may increase the rate of the tax by not more than one 15220
per cent on transactions by which lodging by a hotel is or is to 15221
be furnished to transient guests. Revenue from the increase in 15222
rate shall be used for the purposes of paying the costs of 15223

constructing, improving, and maintaining a professional sports 15224
facility in the county and paying expenses considered necessary 15225
by the convention and visitors' bureau operating in the county 15226
to promote travel and tourism with respect to that professional 15227
sports facility. The tax shall take effect only after the 15228
convention and visitors' bureau enters into a contract for the 15229
construction, improvement, or maintenance of a professional 15230
sports facility that is or will be located on property acquired, 15231
in whole or in part, with revenue from the increased rate, and 15232
thereafter shall remain in effect for the period specified in 15233
the resolution. If revenue from the increase in rate is pledged 15234
to the payment of debt charges on securities, the increase in 15235
rate is not subject to diminution by initiative or referendum or 15236
by law for so long as the securities are outstanding, unless a 15237
provision is made by law or by the board of county commissioners 15238
for an adequate substitute for that revenue that is satisfactory 15239
to the trustee if a trust agreement secures payment of the debt 15240
charges. The increase in rate shall be subject to the 15241
regulations adopted under division (A) ~~(1)~~ of this section, 15242
except that the resolution may provide that no portion of the 15243
revenue from the increase in the rate shall be returned to 15244
townships or municipal corporations as would otherwise be 15245
required under division (A) ~~(1)~~ of this section. 15246

~~(e)~~ (3) If, on December 31, 2019, the convention and 15247
visitors' bureau has not entered into a contract for the 15248
construction, improvement, or maintenance of a professional 15249
sports facility that is or will be located on property acquired, 15250
in whole or in part, with revenue from the increased rate, the 15251
authority to levy the tax under division ~~(A) (12)~~ ~~(b)~~ (L) (2) of 15252
this section is hereby repealed on that date. 15253

~~(B) (1) The legislative authority of a municipal~~ 15254

~~corporation or the board of trustees of a township that is not~~ 15255
~~wholly or partly located in a county that has in effect a~~ 15256
~~resolution levying an excise tax pursuant to division (A) (1) of~~ 15257
~~this section may, by ordinance or resolution, levy an excise tax~~ 15258
~~not to exceed three per cent on transactions by which lodging by~~ 15259
~~a hotel is or is to be furnished to transient guests. The~~ 15260
~~legislative authority of the municipal corporation or the board~~ 15261
~~of trustees of the township shall deposit at least fifty per~~ 15262
~~cent of the revenue from the tax levied pursuant to this~~ 15263
~~division into a separate fund, which shall be spent solely to~~ 15264
~~make contributions to convention and visitors' bureaus operating~~ 15265
~~within the county in which the municipal corporation or township~~ 15266
~~is wholly or partly located, and the balance of that revenue~~ 15267
~~shall be deposited in the general fund. The municipal~~ 15268
~~corporation or township shall establish all regulations~~ 15269
~~necessary to provide for the administration and allocation of~~ 15270
~~the tax. The regulations may prescribe the time for payment of~~ 15271
~~the tax, and may provide for the imposition of a penalty or~~ 15272
~~interest, or both, for late payments, provided that the penalty~~ 15273
~~does not exceed ten per cent of the amount of tax due, and the~~ 15274
~~rate at which interest accrues does not exceed the rate per~~ 15275
~~annum prescribed pursuant to section 5703.47 of the Revised~~ 15276
~~Code. The levy of a tax under this division is in addition to~~ 15277
~~any tax imposed on the same transaction by a municipal~~ 15278
~~corporation or a township as authorized by division (A) of~~ 15279
~~section 5739.08 of the Revised Code.~~ 15280

~~(2) (a) The legislative authority of the most populous~~ 15281
~~municipal corporation located wholly or partly in a county in~~ 15282
~~which the board of county commissioners has levied a tax under~~ 15283
~~division (A) (4) of this section may amend, on or before~~ 15284
~~September 30, 2002, that municipal corporation's ordinance or~~ 15285

~~resolution that levies an excise tax on transactions by which
lodging by a hotel is or is to be furnished to transient guests,
to provide for all of the following:~~ 15286
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~~(i) That the rate of the tax shall be increased by not
more than an additional one per cent on each transaction;~~ 15289
15290

~~(ii) That all of the revenue from the increase in rate
shall be pledged and contributed to a convention facilities
authority established by the board of county commissioners under
Chapter 351. of the Revised Code on or before May 15, 2002, and
be used to pay costs of constructing, expanding, maintaining,
operating, or promoting a convention center in the county,
including paying bonds, or notes issued in anticipation of
bonds, as provided by that chapter;~~ 15291
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~~(iii) That the increase in rate shall not be subject to
diminution by initiative or referendum or by law while any
bonds, or notes in anticipation of bonds, issued by the
authority under Chapter 351. of the Revised Code to which the
revenue is pledged, remain outstanding in accordance with their
terms, unless provision is made by law, by the board of county
commissioners, or by the legislative authority, for an adequate
substitute therefor that is satisfactory to the trustee if a
trust agreement secures the bonds.~~ 15299
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~~(b) The legislative authority of a municipal corporation
that, pursuant to division (B) (2) (a) of this section, has
amended its ordinance or resolution to increase the rate of the
tax authorized by division (B) (1) of this section may further
amend the ordinance or resolution to provide that the revenue
referred to in division (B) (2) (a) (ii) of this section shall be
pledged and contributed both to a convention facilities
authority to pay the costs of constructing, expanding,~~ 15308
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~~maintaining, or operating one or more convention centers in the~~ 15316
~~county, including paying bonds, or notes issued in anticipation~~ 15317
~~of bonds, as provided in Chapter 351. of the Revised Code, and~~ 15318
~~to a convention and visitors' bureau to pay the costs of~~ 15319
~~promoting one or more convention centers in the county.~~ 15320

~~As used in division (B) (2) of this section, "cost" has the~~ 15321
~~same meaning as in section 351.01 of the Revised Code, and~~ 15322
~~"convention center" has the same meaning as in section 307.695-~~ 15323
~~of the Revised Code.~~ 15324

~~(3) The legislative authority of an eligible municipal~~ 15325
~~corporation may amend, on or before December 31, 2017, that~~ 15326
~~municipal corporation's ordinance or resolution that levies an~~ 15327
~~excise tax on transactions by which lodging by a hotel is or is~~ 15328
~~to be furnished to transient guests, to provide for the~~ 15329
~~following:~~ 15330

~~(a) That the rate of the tax shall be increased by not~~ 15331
~~more than an additional three per cent on each transaction;~~ 15332

~~(b) That all of the revenue from the increase in rate~~ 15333
~~shall be used by the municipal corporation for economic~~ 15334
~~development and tourism-related purposes.~~ 15335

~~As used in division (B) (3) of this section, "eligible~~ 15336
~~municipal corporation" means a municipal corporation that, on~~ 15337
~~the effective date of the amendment of this section by H.B. 49~~ 15338
~~of the 132nd general assembly, September 29, 2017, levied a tax~~ 15339
~~under division (B) (1) of this section at a rate of three per~~ 15340
~~cent and that is located in a county that, on that date, levied~~ 15341
~~a tax under division (A) of this section at a rate of three per~~ 15342
~~cent and that has, according to the most recent federal~~ 15343
~~decennial census, a population exceeding three hundred thousand~~ 15344

~~but not greater than three hundred fifty thousand.~~ 15345

~~(C)~~ (M) (1) For the purposes described in section 307.695 15346
of the Revised Code and to cover the costs of administering the 15347
tax, a board of county commissioners of a county where a tax 15348
imposed under division (A)~~(1)~~ of this section is in effect may, 15349
by resolution adopted within ninety days after July 15, 1985, by 15350
a majority of the members of the board, levy an additional 15351
excise tax not to exceed three per cent on transactions by which 15352
lodging by a hotel is or is to be furnished to transient guests. 15353
The tax authorized by ~~this division~~ (M) of this section shall be 15354
in addition to any tax that is levied pursuant to ~~division~~ 15355
divisions (A) to (L) of this section, but it shall not apply to 15356
transactions subject to a tax levied by a municipal corporation 15357
or township pursuant to ~~the authorization granted by division~~ 15358
~~(A) of section 5739.08 of the Revised Code. The~~ 15359

(2) The board shall establish all regulations necessary to 15360
provide for the administration and allocation of the tax. The 15361
regulations may prescribe the time for payment of the tax, and 15362
may provide for the imposition of a penalty or interest, or 15363
both, for late payments, provided that the penalty does not 15364
exceed ten per cent of the amount of tax due, and the rate at 15365
which interest accrues does not exceed the rate per annum 15366
prescribed pursuant to section 5703.47 of the Revised Code. ~~All~~ 15367

(3) All revenues arising from the tax shall be expended in 15368
accordance with section 307.695 of the Revised Code. The board 15369
of county commissioners of an eligible county as defined in 15370
section 307.695 of the Revised Code may, by resolution adopted 15371
by a majority of the members of the board, amend the resolution 15372
levying a tax under this division to provide that the revenue 15373
from the tax shall be used by the board as described in division 15374

(H) of section 307.695 of the Revised Code. ~~A~~ 15375

(4) A tax imposed under this division shall remain in 15376
effect at the rate at which it is imposed for the duration of 15377
the period during which any agreement entered into by the board 15378
under section 307.695 of the Revised Code is in effect, the 15379
duration of the period during which any securities issued by the 15380
board under division (I) of section 307.695 of the Revised Code 15381
are outstanding, or the duration of the period during which the 15382
board owns a project as defined in section 307.695 of the 15383
Revised Code, whichever duration is longest. 15384

~~(D)~~(N) (1) For the purpose of providing contributions 15385
under division (B) (1) of section 307.671 of the Revised Code to 15386
enable the acquisition, construction, and equipping of a port 15387
authority educational and cultural facility in the county and, 15388
to the extent provided for in the cooperative agreement 15389
authorized by that section, for the purpose of paying debt 15390
service charges on bonds, or notes in anticipation of bonds, 15391
described in division (B) (1) (b) of that section, a board of 15392
county commissioners, by resolution adopted within ninety days 15393
after December 22, 1992, by a majority of the members of the 15394
board, may levy an additional excise tax not to exceed one and 15395
one-half per cent on transactions by which lodging by a hotel is 15396
or is to be furnished to transient guests. The excise tax 15397
authorized by ~~this division~~ (N) of this section shall be in 15398
addition to any tax that is levied pursuant to divisions (A), ~~—~~ 15399
~~(B), and (C)~~ to (M) of this section, to any excise tax levied 15400
pursuant to section 5739.08 of the Revised Code, and to any 15401
excise tax levied pursuant to section 351.021 of the Revised 15402
Code. ~~The~~ 15403

(2) The board of county commissioners shall establish all 15404

regulations necessary to provide for the administration and 15405
allocation of the tax that are not inconsistent with this 15406
section or section 307.671 of the Revised Code. The regulations 15407
may prescribe the time for payment of the tax, and may provide 15408
for the imposition of a penalty or interest, or both, for late 15409
payments, provided that the penalty does not exceed ten per cent 15410
of the amount of tax due, and the rate at which interest accrues 15411
does not exceed the rate per annum prescribed pursuant to 15412
section 5703.47 of the Revised Code. ~~All~~ 15413

(3) All revenues arising from the tax shall be expended in 15414
accordance with section 307.671 of the Revised Code and division 15415
~~(D)~~ (N) of this section. The levy of a tax imposed under ~~this~~ 15416
division (N) of this section may not commence prior to the first 15417
day of the month next following the execution of the cooperative 15418
agreement authorized by section 307.671 of the Revised Code by 15419
all parties to that agreement. ~~The~~ 15420

(4) The tax shall remain in effect at the rate at which it 15421
is imposed for the period of time described in division (C) of 15422
section 307.671 of the Revised Code for which the revenue from 15423
the tax has been pledged by the county to the corporation 15424
pursuant to that section, but, to any extent provided for in the 15425
cooperative agreement, for no lesser period than the period of 15426
time required for payment of the debt service charges on bonds, 15427
or notes in anticipation of bonds, described in division (B) (1) 15428
(b) of that section. 15429

~~(E)~~ (O) (1) For the purpose of paying the costs of 15430
acquiring, constructing, equipping, and improving a municipal 15431
educational and cultural facility, including debt service 15432
charges on bonds provided for in division (B) of section 307.672 15433
of the Revised Code, and for any additional purposes determined 15434

by the county in the resolution levying the tax or amendments to 15435
the resolution, including subsequent amendments providing for 15436
paying costs of acquiring, constructing, renovating, 15437
rehabilitating, equipping, and improving a port authority 15438
educational and cultural performing arts facility, as defined in 15439
section 307.674 of the Revised Code, and including debt service 15440
charges on bonds provided for in division (B) of section 307.674 15441
of the Revised Code, the legislative authority of a county, by 15442
resolution adopted within ninety days after June 30, 1993, by a 15443
majority of the members of the legislative authority, may levy 15444
an additional excise tax not to exceed one and one-half per cent 15445
on transactions by which lodging by a hotel is or is to be 15446
furnished to transient guests. The excise tax authorized by ~~this~~ 15447
division (O) of this section shall be in addition to any tax 15448
that is levied pursuant to divisions (A), ~~(B), (C), and (D)~~ to 15449
(N) of this section, to any excise tax levied pursuant to 15450
section 5739.08 of the Revised Code, and to any excise tax 15451
levied pursuant to section 351.021 of the Revised Code. ~~The~~ 15452

(2) ~~The~~ legislative authority of the county shall 15453
establish all regulations necessary to provide for the 15454
administration and allocation of the tax. The regulations may 15455
prescribe the time for payment of the tax, and may provide for 15456
the imposition of a penalty or interest, or both, for late 15457
payments, provided that the penalty does not exceed ten per cent 15458
of the amount of tax due, and the rate at which interest accrues 15459
does not exceed the rate per annum prescribed pursuant to 15460
section 5703.47 of the Revised Code. ~~All~~ 15461

(3) ~~All~~ revenues arising from the tax shall be expended in 15462
accordance with section 307.672 of the Revised Code and this 15463
division. The levy of a tax imposed under this division shall 15464
not commence prior to the first day of the month next following 15465

the execution of the cooperative agreement authorized by section 15466
307.672 of the Revised Code by all parties to that agreement. 15467
The tax shall remain in effect at the rate at which it is 15468
imposed for the period of time determined by the legislative 15469
authority of the county. That period of time shall not exceed 15470
fifteen years, except that the legislative authority of a county 15471
with a population of less than two hundred fifty thousand 15472
according to the most recent federal decennial census, by 15473
resolution adopted by a majority of its members before the 15474
original tax expires, may extend the duration of the tax for an 15475
additional period of time. The additional period of time by 15476
which a legislative authority extends a tax levied under ~~this~~ 15477
division (O) of this section shall not exceed fifteen years. 15478

~~(F)~~(P) (1) The legislative authority of a county that has 15479
levied a tax under division ~~(E)~~(O) of this section may, by 15480
resolution adopted within one hundred eighty days after January 15481
4, 2001, by a majority of the members of the legislative 15482
authority, amend the resolution levying a tax under that 15483
division to provide for the use of the proceeds of that tax, to 15484
the extent that it is no longer needed for its original purpose 15485
as determined by the parties to a cooperative agreement 15486
amendment pursuant to division (D) of section 307.672 of the 15487
Revised Code, to pay costs of acquiring, constructing, 15488
renovating, rehabilitating, equipping, and improving a port 15489
authority educational and cultural performing arts facility, 15490
including debt service charges on bonds provided for in division 15491
(B) of section 307.674 of the Revised Code, and to pay all 15492
obligations under any guaranty agreements, reimbursement 15493
agreements, or other credit enhancement agreements described in 15494
division (C) of section 307.674 of the Revised Code. ~~The~~ 15495

(2) The resolution may also provide for the extension of 15496

the tax at the same rate for the longer of the period of time 15497
determined by the legislative authority of the county, but not 15498
to exceed an additional twenty-five years, or the period of time 15499
required to pay all debt service charges on bonds provided for 15500
in division (B) of section 307.672 of the Revised Code and on 15501
port authority revenue bonds provided for in division (B) of 15502
section 307.674 of the Revised Code. ~~All~~ 15503

(3) All revenues arising from the amendment and extension 15504
of the tax shall be expended in accordance with section 307.674 15505
of the Revised Code, ~~this division,~~ and ~~division (E)~~ divisions 15506
(O) and (P) of this section. 15507

~~(G) For purposes of a tax levied by a county, township, or~~ 15508
~~municipal corporation under this section or section 5739.08 of~~ 15509
~~the Revised Code, a board of county commissioners, board of~~ 15510
~~township trustees, or the legislative authority of a municipal~~ 15511
~~corporation may adopt a resolution or ordinance at any time~~ 15512
~~specifying that "hotel," as otherwise defined in section 5739.01~~ 15513
~~of the Revised Code, includes the following:—~~ 15514

~~(1) Establishments in which fewer than five rooms are used~~ 15515
~~for the accommodation of guests.—~~ 15516

~~(2) Establishments at which rooms are used for the~~ 15517
~~accommodation of guests regardless of whether each room is~~ 15518
~~accessible through its own keyed entry or several rooms are~~ 15519
~~accessible through the same keyed entry; and, in determining the~~ 15520
~~number of rooms, all rooms are included regardless of the number~~ 15521
~~of structures in which the rooms are situated or the number of~~ 15522
~~parcels of land on which the structures are located if the~~ 15523
~~structures are under the same ownership and the structures are~~ 15524
~~not identified in advertisements of the accommodations as~~ 15525
~~distinct establishments. For the purposes of division (G) (2) of~~ 15526

~~this section, two or more structures are under the same ownership if they are owned by the same person, or if they are owned by two or more persons the majority of the ownership interests of which are owned by the same person.~~ 15527
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~~The resolution or ordinance may apply to a tax imposed pursuant to this section prior to the adoption of the resolution or ordinance if the resolution or ordinance so states, but the tax shall not apply to transactions by which lodging by such an establishment is provided to transient guests prior to the adoption of the resolution or ordinance.~~ 15531
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~~(H)~~ (Q) (1) As used in this division: 15537

(a) "Convention facilities authority" has the same meaning as in section 351.01 of the Revised Code. 15538
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(b) "Convention center" has the same meaning as in section 307.695 of the Revised Code. 15540
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(2) Notwithstanding any contrary provision of division ~~(D)~~ (N) of this section, the legislative authority of a county with a population of one million or more according to the most recent federal decennial census that has levied a tax under division ~~(D)~~ (N) of this section may, by resolution adopted by a majority of the members of the legislative authority, provide for the extension of such levy and may provide that the proceeds of that tax, to the extent that they are no longer needed for their original purpose as defined by a cooperative agreement entered into under section 307.671 of the Revised Code, shall be deposited into the county general revenue fund. The resolution shall provide for the extension of the tax at a rate not to exceed the rate specified in division ~~(D)~~ (N) of this section for a period of time determined by the legislative authority of 15542
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the county, but not to exceed an additional forty years. 15556

(3) The legislative authority of a county with a 15557
population of one million or more that has levied a tax under 15558
division (A) ~~(1)~~ of this section may, by resolution adopted by a 15559
majority of the members of the legislative authority, increase 15560
the rate of the tax levied by such county under division (A) ~~(1)~~ 15561
of this section to a rate not to exceed five per cent on 15562
transactions by which lodging by a hotel is or is to be 15563
furnished to transient guests. Notwithstanding any contrary 15564
provision of division (A) ~~(1)~~ of this section, the resolution may 15565
provide that all collections resulting from the rate levied in 15566
excess of three per cent, after deducting the real and actual 15567
costs of administering the tax, shall be deposited in the county 15568
general fund. 15569

(4) The legislative authority of a county with a 15570
population of one million or more that has levied a tax under 15571
division (A) ~~(1)~~ of this section may, by resolution adopted on or 15572
before August 30, 2004, by a majority of the members of the 15573
legislative authority, provide that all or a portion of the 15574
proceeds of the tax levied under division (A) ~~(1)~~ of this 15575
section, after deducting the real and actual costs of 15576
administering the tax and the amounts required to be returned to 15577
townships and municipal corporations with respect to the first 15578
three per cent levied under division (A) ~~(1)~~ of this section, 15579
shall be deposited in the county general fund, provided that 15580
such proceeds shall be used to satisfy any pledges made in 15581
connection with an agreement entered into under section 307.695 15582
of the Revised Code. 15583

(5) No amount collected from a tax levied, extended, or 15584
required to be deposited in the county general fund under 15585

division ~~(H)~~(Q) of this section shall be contributed to a 15586
convention facilities authority, corporation, or other entity 15587
created after July 1, 2003, for the principal purpose of 15588
constructing, improving, expanding, equipping, financing, or 15589
operating a convention center unless the mayor of the municipal 15590
corporation in which the convention center is to be operated by 15591
that convention facilities authority, corporation, or other 15592
entity has consented to the creation of that convention 15593
facilities authority, corporation, or entity. Notwithstanding 15594
any contrary provision of section 351.04 of the Revised Code, if 15595
a tax is levied by a county under division ~~(H)~~(Q) of this 15596
section, the board of county commissioners of that county may 15597
determine the manner of selection, the qualifications, the 15598
number, and terms of office of the members of the board of 15599
directors of any convention facilities authority, corporation, 15600
or other entity described in division ~~(H)~~(Q) (5) of this section. 15601

(6) (a) No amount collected from a tax levied, extended, or 15602
required to be deposited in the county general fund under 15603
division ~~(H)~~(Q) of this section may be used for any purpose 15604
other than paying the direct and indirect costs of constructing, 15605
improving, expanding, equipping, financing, or operating a 15606
convention center and for the real and actual costs of 15607
administering the tax, unless, prior to the adoption of the 15608
resolution of the legislative authority of the county 15609
authorizing the levy, extension, increase, or deposit, the 15610
county and the mayor of the most populous municipal corporation 15611
in that county have entered into an agreement as to the use of 15612
such amounts, provided that such agreement has been approved by 15613
a majority of the mayors of the other municipal corporations in 15614
that county. The agreement shall provide that the amounts to be 15615
used for purposes other than paying the convention center or 15616

administrative costs described in division ~~(H)~~(Q) (6) (a) of this 15617
section be used only for the direct and indirect costs of 15618
capital improvements, including the financing of capital 15619
improvements. 15620

(b) If the county in which the tax is levied has an 15621
association of mayors and city managers, the approval of that 15622
association of an agreement described in division ~~(H)~~(Q) (6) (a) 15623
of this section shall be considered to be the approval of the 15624
majority of the mayors of the other municipal corporations for 15625
purposes of that division. 15626

(7) Each year, the auditor of state shall conduct an audit 15627
of the uses of any amounts collected from taxes levied, 15628
extended, or deposited under division ~~(H)~~(Q) of this section 15629
and shall prepare a report of the auditor of state's findings. 15630
The auditor of state shall submit the report to the legislative 15631
authority of the county that has levied, extended, or deposited 15632
the tax, the speaker of the house of representatives, the 15633
president of the senate, and the leaders of the minority parties 15634
of the house of representatives and the senate. 15635

~~(I)~~(R) (1) As used in ~~this~~ division (R) of this section: 15636

(a) "Convention facilities authority" has the same meaning 15637
as in section 351.01 of the Revised Code. 15638

(b) "Convention center" has the same meaning as in section 15639
307.695 of the Revised Code. 15640

(2) Notwithstanding any contrary provision of division ~~(D)~~ 15641
(N) of this section, the legislative authority of a county with 15642
a population of one million two hundred thousand or more 15643
according to the most recent federal decennial census or the 15644
most recent annual population estimate published or released by 15645

the United States census bureau at the time the resolution is 15646
adopted placing the levy on the ballot, that has levied a tax 15647
under division ~~(D)~~(N) of this section may, by resolution 15648
adopted by a majority of the members of the legislative 15649
authority, provide for the extension of such levy and may 15650
provide that the proceeds of that tax, to the extent that the 15651
proceeds are no longer needed for their original purpose as 15652
defined by a cooperative agreement entered into under section 15653
307.671 of the Revised Code and after deducting the real and 15654
actual costs of administering the tax, shall be used for paying 15655
the direct and indirect costs of constructing, improving, 15656
expanding, equipping, financing, or operating a convention 15657
center. The resolution shall provide for the extension of the 15658
tax at a rate not to exceed the rate specified in division ~~(D)~~ 15659
(N) of this section for a period of time determined by the 15660
legislative authority of the county, but not to exceed an 15661
additional forty years. 15662

(3) The legislative authority of a county with a 15663
population of one million two hundred thousand or more that has 15664
levied a tax under division (A)~~(1)~~ of this section may, by 15665
resolution adopted by a majority of the members of the 15666
legislative authority, increase the rate of the tax levied by 15667
such county under division (A)~~(1)~~ of this section to a rate not 15668
to exceed five per cent on transactions by which lodging by a 15669
hotel is or is to be furnished to transient guests. 15670
Notwithstanding any contrary provision of division (A)~~(1)~~ of 15671
this section, the resolution shall provide that all collections 15672
resulting from the rate levied in excess of three per cent, 15673
after deducting the real and actual costs of administering the 15674
tax, shall be used for paying the direct and indirect costs of 15675
constructing, improving, expanding, equipping, financing, or 15676

operating a convention center. 15677

(4) The legislative authority of a county with a 15678
population of one million two hundred thousand or more that has 15679
levied a tax under division (A) ~~(1)~~ of this section may, by 15680
resolution adopted on or before July 1, 2008, by a majority of 15681
the members of the legislative authority, provide that all or a 15682
portion of the proceeds of the tax levied under division (A) ~~(1)~~ 15683
of this section, after deducting the real and actual costs of 15684
administering the tax and the amounts required to be returned to 15685
townships and municipal corporations with respect to the first 15686
three per cent levied under division (A) ~~(1)~~ of this section, 15687
shall be used to satisfy any pledges made in connection with an 15688
agreement entered into under section 307.695 of the Revised Code 15689
or shall otherwise be used for paying the direct and indirect 15690
costs of constructing, improving, expanding, equipping, 15691
financing, or operating a convention center. 15692

(5) Any amount collected from a tax levied or extended 15693
under division ~~(I)~~ (R) of this section may be contributed to a 15694
convention facilities authority created before July 1, 2005, but 15695
no amount collected from a tax levied or extended under division 15696
~~(I)~~ (R) of this section may be contributed to a convention 15697
facilities authority, corporation, or other entity created after 15698
July 1, 2005, unless the mayor of the municipal corporation in 15699
which the convention center is to be operated by that convention 15700
facilities authority, corporation, or other entity has consented 15701
to the creation of that convention facilities authority, 15702
corporation, or entity. 15703

~~(J) (1) Except as provided in division (J) (2) of this~~ 15704
~~section, money collected by a county and distributed under this~~ 15705
~~section to a convention and visitors' bureau in existence as of~~ 15706

~~June 30, 2013, the effective date of H.B. 59 of the 130th general assembly, except for any such money pledged, as of that effective date, to the payment of debt service charges on bonds, notes, securities, or lease agreements, shall be used solely for tourism sales, marketing and promotion, and their associated costs, including, but not limited to, operational and administrative costs of the bureau, sales and marketing, and maintenance of the physical bureau structure.~~ 15707
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~~(2) A convention and visitors' bureau that has entered into an agreement under section 307.678 of the Revised Code may use revenue it receives from a tax levied under division (A)(1) of this section as described in division (E) of section 307.678 of the Revised Code.~~ 15715
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~~(K)(S) As used in division (S) of this section, "soldiers' memorial" means a memorial constructed and funded under Chapter 345. of the Revised Code.~~ 15720
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The board of county commissioners of a county with a population between one hundred three thousand and one hundred seven thousand according to the most recent federal decennial census, by resolution adopted by a majority of the members of the board within six months after September 15, 2014, ~~the effective date of H.B. 483 of the 130th general assembly,~~ may levy a tax not to exceed three per cent on transactions by which a hotel is or is to be furnished to transient guests. The purpose of the tax shall be to pay the costs of expanding, maintaining, or operating a soldiers' memorial and the costs of administering the tax. All revenue arising from the tax shall be credited to one or more special funds in the county treasury and shall be spent solely for the purposes of paying those costs. ~~The~~ 15723
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The board of county commissioners shall adopt all rules 15737
necessary to provide for the administration of the tax subject 15738
to the same limitations on imposing penalty or interest under 15739
division (A) ~~(1)~~ of this section. 15740

~~As used in this division "soldiers' memorial" means a~~ 15741
~~memorial constructed and funded under Chapter 345. of the~~ 15742
~~Revised Code.~~ 15743

~~(L)~~ (T) As used in division (T) of this section, "eligible 15744
county" means a county in which a county agricultural society or 15745
independent agricultural society is organized under section 15746
1711.01 or 1711.02 of the Revised Code, provided the 15747
agricultural society owns a facility or site in the county at 15748
which an annual harness horse race is conducted where one-day 15749
attendance equals at least forty thousand attendees. 15750

A board of county commissioners of an eligible county, by 15751
resolution adopted by a majority of the members of the board, 15752
may levy an excise tax at the rate of up to three per cent on 15753
transactions by which lodging by a hotel is or is to be 15754
furnished to transient guests for the purpose of paying the 15755
costs of permanent improvements at sites at which one or more 15756
agricultural societies conduct fairs or exhibits, paying the 15757
costs of maintaining or operating such permanent improvements, 15758
and paying the costs of administering the tax. ~~A~~ 15759

A resolution adopted under ~~this~~ division (T) of this 15760
section shall direct the board of elections to submit the 15761
question of the proposed lodging tax to the electors of the 15762
county at a special election held on the date specified by the 15763
board in the resolution, provided that the election occurs not 15764
less than ninety days after a certified copy of the resolution 15765
is transmitted to the board of elections. A resolution submitted 15766

to the electors under ~~this~~ division (T) of this section shall 15767
not go into effect unless it is approved by a majority of those 15768
voting upon it. The resolution takes effect on the date the 15769
board of county commissioners receives notification from the 15770
board of elections of an affirmative vote. 15771

The tax shall remain in effect for the period specified in 15772
the resolution, not to exceed five years. All revenue arising 15773
from the tax shall be credited to one or more special funds in 15774
the county treasury and shall be spent solely for the purposes 15775
of paying the costs of such permanent improvements and 15776
maintaining or operating the improvements. Revenue allocated for 15777
the use of a county agricultural society may be credited to the 15778
county agricultural society fund created in section 1711.16 of 15779
the Revised Code upon appropriation by the board. If revenue is 15780
credited to that fund, it shall be expended only as provided in 15781
that section. 15782

The board of county commissioners shall adopt all rules 15783
necessary to provide for the administration of the tax. The 15784
rules may prescribe the time for payment of the tax, and may 15785
provide for the imposition or penalty or interest, or both, for 15786
late payments, provided that the penalty does not exceed ten per 15787
cent of the amount of tax due, and the rate at which interest 15788
accrues does not exceed the rate per annum prescribed in section 15789
5703.47 of the Revised Code. 15790

~~As used in this division, "eligible county" means a county~~ 15791
~~in which a county agricultural society or independent~~ 15792
~~agricultural society is organized under section 1711.01 or~~ 15793
~~1711.02 of the Revised Code, provided the agricultural society~~ 15794
~~owns a facility or site in the county at which an annual harness~~ 15795
~~horse race is conducted where one day attendance equals at least~~ 15796

~~forty thousand attendees.~~ 15797

~~(M)~~ (U) As used in ~~this~~ division (U) of this section, 15798
"eligible county" means a county in which a tax is levied under 15799
division (A) of this section at a rate of three per cent and 15800
whose territory includes a part of Lake Erie the shoreline of 15801
which represents at least fifty per cent of the linear length of 15802
the county's border with other counties of this state. 15803

The board of county commissioners of an eligible county 15804
that has entered into an agreement with a port authority in the 15805
county under section 4582.56 of the Revised Code may levy an 15806
additional lodging tax on transactions by which lodging by a 15807
hotel is or is to be furnished to transient guests for the 15808
purpose of financing lakeshore improvement projects constructed 15809
or financed by the port authority under that section. The 15810
resolution levying the tax shall specify the purpose of the tax, 15811
the rate of the tax, which shall not exceed two per cent, and 15812
the number of years the tax will be levied or that it will be 15813
levied for a continuing period of time. The tax shall be 15814
administered pursuant to the regulations adopted by the board 15815
under division (A) of this section, except that all the proceeds 15816
of the tax levied under this division shall be pledged to the 15817
payment of the costs, including debt charges, of lakeshore 15818
improvements undertaken by a port authority pursuant to the 15819
agreement under section 4582.56 of the Revised Code. No revenue 15820
from the tax may be used to pay the current expenses of the port 15821
authority. 15822

A resolution levying a tax under ~~this~~ division (U) of this 15823
section is subject to referendum under sections 305.31 to 305.41 15824
and 305.99 of the Revised Code. 15825

~~(N)~~ (V) (1) As used in division (V) of this section: 15826

(a) "Tourism development district" means a district 15827
designated by a municipal corporation under section 715.014 of 15828
the Revised Code or by a township under section 503.56 of the 15829
Revised Code. 15830

(b) "Lodging tax" means a tax levied pursuant to this 15831
section or section 5739.08 of the Revised Code. 15832

(c) "Tourism development district lodging tax proceeds" 15833
means all proceeds of a lodging tax derived from transactions by 15834
which lodging by a hotel located in a tourism development 15835
district is or is to be provided to transient guests. 15836

(d) "Eligible county" has the same meaning as in section 15837
307.678 of the Revised Code. 15838

(2)(a) Notwithstanding division (A) of this section, the 15839
board of county commissioners, board of township trustees, or 15840
legislative authority of any county, township, or municipal 15841
corporation that levies a lodging tax on September 29, 2017, and 15842
in which any part of a tourism development district is located 15843
on or after that date shall amend the ordinance or resolution 15844
levying the tax to require either of the following: 15845

(i) In the case of a tax levied by a county, that all 15846
tourism development district lodging tax proceeds from that tax 15847
be used exclusively to foster and develop tourism in the tourism 15848
development district; 15849

(ii) In the case of a tax levied by a township or 15850
municipal corporation, that all tourism development district 15851
lodging tax proceeds from that tax be used exclusively to foster 15852
and develop tourism in the tourism development district. 15853

(b) Notwithstanding division (A) of this section, any 15854
ordinance or resolution levying a lodging tax adopted on or 15855

after September 29, 2017, by a county, township, or municipal corporation in which any part of a tourism development district is located on or after that date shall require that all tourism development district lodging tax proceeds from that tax be used exclusively to foster and develop tourism in the tourism development district.

(c) A county shall not use any of the proceeds described in division ~~(N) (1)~~ (V) (2) (a) (i) or ~~(N) (1)~~ (V) (2) (b) of this section unless the convention and visitors' bureau operating within the county approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the county may pay such proceeds to the bureau to use for the agreed-upon purpose.

A municipal corporation or township shall not use any of the proceeds described in division ~~(N) (1)~~ (V) (2) (a) (ii) or ~~(N) (1)~~ (V) (2) (b) of this section unless the convention and visitors' bureau operating within the municipal corporation or township approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the municipal corporation or township may pay such proceeds to the bureau to use for the agreed-upon purpose.

~~(2)~~ (3) (a) Notwithstanding division (A) of this section, the board of county commissioners of an eligible county that levies a lodging tax on March 23, 2018, may amend the resolution levying that tax to require that all or a portion of the proceeds of that tax otherwise required to be spent solely to make contributions to the convention and visitors' bureau operating within the county shall be used to foster and develop tourism in a tourism development district.

(b) Notwithstanding division (A) of this section, the board of county commissioners of an eligible county that adopts a resolution levying a lodging tax on or after March 23, 2018, may require that all or a portion of the proceeds of that tax otherwise required to be spent solely to make contributions to the convention and visitors' bureau operating within the county pursuant to division (A) of this section shall be used to foster and develop tourism in a tourism development district.

(c) A county shall not use any of the proceeds in the manner described in division ~~(N) (2)~~ (V) (3) (a) or (b) of this section unless the convention and visitors' bureau operating within the county approves the manner in which such proceeds are used to foster and develop tourism in the tourism development district. Upon obtaining such approval, the county may pay such proceeds to the bureau to use for the agreed upon purpose.

~~(3) As used in division (N) of this section:~~

~~(a) "Tourism development district" means a district designated by a municipal corporation under section 715.014 of the Revised Code or by a township under section 503.56 of the Revised Code.~~

~~(b) "Lodging tax" means a tax levied pursuant to this section or section 5739.08 of the Revised Code.~~

~~(c) "Tourism development district lodging tax proceeds" means all proceeds of a lodging tax derived from transactions by which lodging by a hotel located in a tourism development district is or is to be provided to transient guests.~~

~~(d) "Eligible county" has the same meaning as in section 307.678 of the Revised Code.~~

Sec. 5739.091. (A) For the purposes of a tax levied by a

county, township, or municipal corporation under section 5739.08 15915
or 5739.09 of the Revised Code, a board of county commissioners, 15916
board of township trustees, or the legislative authority of a 15917
municipal corporation may adopt a resolution or ordinance at any 15918
time specifying that "hotel," as otherwise defined in section 15919
5739.01 of the Revised Code, includes the following: 15920

(1) Establishments in which fewer than five rooms are used 15921
for the accommodation of guests; 15922

(2) Establishments at which rooms are used for the 15923
accommodation of guests regardless of whether each room is 15924
accessible through its own keyed entry or several rooms are 15925
accessible through the same keyed entry; and, in determining the 15926
number of rooms, all rooms are included regardless of the number 15927
of structures in which the rooms are situated or the number of 15928
parcels of land on which the structures are located if the 15929
structures are under the same ownership and the structures are 15930
not identified in advertisements of the accommodations as 15931
distinct establishments. For the purposes of division (A) (2) of 15932
this section, two or more structures are under the same 15933
ownership if they are owned by the same person, or if they are 15934
owned by two or more persons the majority of the ownership 15935
interests of which are owned by the same person. 15936

(B) The resolution or ordinance may apply to a tax imposed 15937
pursuant to section 5739.08 or 5739.09 of the Revised Code prior 15938
to the adoption of the resolution or ordinance if the resolution 15939
or ordinance so states, but the tax shall not apply to 15940
transactions by which lodging by such an establishment is 15941
provided to transient guests prior to the adoption of the 15942
resolution or ordinance. 15943

Sec. 5739.092. (A) Except as provided in division (B) of 15944

this section, money collected by a county and distributed under 15945
section 5739.09 of the Revised Code to a convention and 15946
visitors' bureau in existence as of June 30, 2013, except for 15947
any such money pledged, as of that date, to the payment of debt 15948
service charges on bonds, notes, securities, or lease 15949
agreements, shall be used solely for tourism sales, marketing 15950
and promotion, and their associated costs, including operational 15951
and administrative costs of the bureau, sales and marketing, and 15952
maintenance of the physical bureau structure. 15953

(B) A convention and visitors' bureau that has entered 15954
into an agreement under section 307.678 of the Revised Code may 15955
use revenue it receives from a tax levied under division (A) of 15956
section 5739.09 of the Revised Code as described in division (E) 15957
of section 307.678 of the Revised Code. 15958

Sec. 5739.21. (A) One hundred per cent of all money 15959
deposited into the state treasury under sections 5739.01 to 15960
5739.31 of the Revised Code that is not required to be 15961
distributed as provided in section 5739.102 of the Revised Code 15962
or division (B) of this section shall be credited to the general 15963
revenue fund. 15964

(B) (1) In any case where any county or transit authority 15965
has levied a tax or taxes pursuant to section 5739.021, 15966
5739.023, or 5739.026 of the Revised Code, the tax commissioner 15967
shall, within forty-five days after the end of each month, 15968
determine and certify to the director of budget and management 15969
the amount of the proceeds of such tax or taxes received during 15970
that month from billings and assessments, or associated with tax 15971
returns or reports filed during that month, to be returned to 15972
the county or transit authority levying the tax or taxes. The 15973
amount to be returned to each county and transit authority shall 15974

be a fraction of the aggregate amount of money collected with 15975
respect to each area in which one or more of such taxes are 15976
concurrently in effect with the tax levied by section 5739.02 of 15977
the Revised Code. The numerator of the fraction is the rate of 15978
the tax levied by the county or transit authority and the 15979
denominator of the fraction is the aggregate rate of such taxes 15980
applicable to such area. The amount to be returned to each 15981
county or transit authority shall be reduced by the amount of 15982
any refunds of county or transit authority tax paid pursuant to 15983
section 5739.07 of the Revised Code during the same month, or 15984
transfers made pursuant to division (B) (2) of section 5703.052 15985
of the Revised Code. 15986

(2) On a periodic basis, using the best information 15987
available, the tax commissioner shall distribute any amount of a 15988
county or transit authority tax that cannot be distributed under 15989
division (B) (1) of this section. Through audit or other means, 15990
the commissioner shall attempt to obtain the information 15991
necessary to make the distribution as provided under that 15992
division and, on receipt of that information, shall make 15993
adjustments to distributions previously made under this 15994
division. 15995

(3) ~~Beginning July 1, 2008, eight~~ Eight and thirty-three 15996
one-hundredths of one per cent of the revenue collected from the 15997
tax due under division (A) of section 5739.029 of the Revised 15998
Code shall be distributed to the county where the sale of the 15999
motor vehicle is sitused under section ~~5739.035~~ 5739.033 of the 16000
Revised Code. The amount to be so distributed to the county 16001
shall be apportioned on the basis of the rates of taxes the 16002
county levies pursuant to sections 5739.021 and 5739.026 of the 16003
Revised Code, as applicable, and shall be credited to the funds 16004
of the county as provided in divisions (A) and (B) of section 16005

5739.211 of the Revised Code. 16006

(C) The aggregate amount to be returned to any county or 16007
transit authority shall be reduced by one per cent, which shall 16008
be certified directly to the credit of the local sales tax 16009
administrative fund, which is hereby created in the state 16010
treasury. For the purpose of determining the amount to be 16011
returned to a county and transit authority in which the rate of 16012
tax imposed by the transit authority has been reduced under 16013
section 5739.028 of the Revised Code, the tax commissioner shall 16014
use the respective rates of tax imposed by the county or transit 16015
authority that results from the change in the rates authorized 16016
under that section. 16017

(D) The director of budget and management shall transfer, 16018
from the same funds and in the same proportions specified in 16019
division (A) of this section, to the permissive tax distribution 16020
fund created by division (B)(1) of section 4301.423 of the 16021
Revised Code and to the local sales tax administrative fund, the 16022
amounts certified by the tax commissioner. The tax commissioner 16023
shall then, on or before the twentieth day of the month in which 16024
such certification is made, provide for payment of such 16025
respective amounts to the county treasurer and to the fiscal 16026
officer of the transit authority levying the tax or taxes. The 16027
amount transferred to the local sales tax administrative fund is 16028
for use by the tax commissioner in defraying costs incurred in 16029
administering such taxes levied by a county or transit 16030
authority. 16031

Sec. 5740.02. (A) (1) The state of Ohio shall participate 16032
in discussions with other states regarding the development of a 16033
streamlined sales and use tax system to reduce the burden and 16034
cost for all sellers to collect this state's sales and use 16035

taxes. 16036

(2) Subject to division (B) of this section, the state 16037
also shall participate in meetings of the implementing states or 16038
the governing board of the agreement to review, amend, or 16039
administer the terms of the agreement to simplify and modernize 16040
sales and use tax administration that embodies the requirements 16041
set forth in section 5740.05 of the Revised Code. For purposes 16042
of these meetings, the state shall be represented by three 16043
delegates. The tax commissioner or the commissioner's designee 16044
shall be the chairperson of the delegation. The other delegates 16045
shall be one delegate chosen by the speaker of the house of 16046
representatives and one delegate chosen by the president of the 16047
senate. In all matters where voting by the member states or the 16048
governing board is required to amend the agreement, the 16049
chairperson, based on the votes of the majority of the 16050
delegation, shall cast this state's vote. 16051

(B) The state shall not participate in the meetings of the 16052
implementing states or the governing board referred to in 16053
division (A)(2) of this section unless the meetings are 16054
conducted in accordance with requirements substantially similar 16055
to those described in divisions (C) and (F) of section 121.22 of 16056
the Revised Code, as if the participants of the meetings were a 16057
public body as defined in that section, except such meetings may 16058
be closed during any discussion pertaining to proprietary 16059
information of a person if the person so requests, personnel 16060
matters, competitive bidding, certification of service 16061
providers, or matters substantially similar to those described 16062
~~in divisions~~ division (G) (2), (3), or (5) of section 121.22 of 16063
the Revised Code. The state may participate in teleconferences, 16064
special meetings, meetings of working groups, committees, or 16065
steering committees if they are conducted in accordance with the 16066

public participation rules applicable to such meetings, as 16067
established by the implementing states entitled to participate 16068
in discussions to finalize the agreement, or the governing 16069
board. 16070

(C) As used in this section: 16071

(1) "Meetings of the implementing states" means meetings 16072
of the entire body of the states that are entitled to 16073
participate in discussions to finalize the agreement because 16074
they have enacted legislation based on the uniform sales and use 16075
tax administration act, approved January 24, 2001, or the 16076
simplified sales and use tax administration act, approved 16077
January 27, 2001. 16078

(2) "Governing board" means the board that, under the 16079
terms of the agreement, is responsible for the administration 16080
and operation of the agreement. 16081

Sec. 5741.01. As used in this chapter: 16082

(A) "Person" includes individuals, receivers, assignees, 16083
trustees in bankruptcy, estates, firms, partnerships, 16084
associations, joint-stock companies, joint ventures, clubs, 16085
societies, corporations, business trusts, governments, and 16086
combinations of individuals of any form. 16087

(B) "Storage" means and includes any keeping or retention 16088
in this state for use or other consumption in this state. 16089

(C) "Use" means and includes the exercise of any right or 16090
power incidental to the ownership of the thing used. A thing is 16091
also "used" in this state if its consumer gives or otherwise 16092
distributes it, without charge, to recipients in this state. 16093

(D) "Purchase" means acquired or received for a 16094

consideration, whether such acquisition or receipt was effected 16095
by a transfer of title, or of possession, or of both, or a 16096
license to use or consume; whether such transfer was absolute or 16097
conditional, and by whatever means the transfer was effected; 16098
and whether the consideration was money, credit, barter, or 16099
exchange. Purchase includes production, even though the article 16100
produced was used, stored, or consumed by the producer. The 16101
transfer of copyrighted motion picture films for exhibition 16102
purposes is not a purchase, except such films as are used solely 16103
for advertising purposes. 16104

(E) "Seller" means the person from whom a purchase is 16105
made, and includes every person engaged in this state or 16106
elsewhere in the business of selling tangible personal property 16107
or providing a service for storage, use, or other consumption or 16108
benefit in this state; and when, in the opinion of the tax 16109
commissioner, it is necessary for the efficient administration 16110
of this chapter, to regard any salesperson, representative, 16111
peddler, or canvasser as the agent of a dealer, distributor, 16112
supervisor, or employer under whom the person operates, or from 16113
whom the person obtains tangible personal property, sold by the 16114
person for storage, use, or other consumption in this state, 16115
irrespective of whether or not the person is making such sales 16116
on the person's own behalf, or on behalf of such dealer, 16117
distributor, supervisor, or employer, the commissioner may 16118
regard the person as such agent, and may regard such dealer, 16119
distributor, supervisor, or employer as the seller. "Seller" 16120
does not include any person to the extent the person provides a 16121
communications medium, such as, but not limited to, newspapers, 16122
magazines, radio, television, or cable television, by means of 16123
which sellers solicit purchases of their goods or services. 16124

(F) "Consumer" means any person who has purchased tangible 16125

personal property or has been provided a service for storage, 16126
use, or other consumption or benefit in this state. "Consumer" 16127
does not include a person who receives, without charge, tangible 16128
personal property or a service. 16129

A person who performs a facility management or similar 16130
service contract for a contractee is a consumer of all tangible 16131
personal property and services purchased for use in connection 16132
with the performance of such contract, regardless of whether 16133
title to any such property vests in the contractee. The purchase 16134
of such property and services is not subject to the exception 16135
for resale under division (E) of section 5739.01 of the Revised 16136
Code. 16137

(G) (1) "Price," except as provided in divisions (G) (2) to 16138
(6) of this section, has the same meaning as in division (H) (1) 16139
of section 5739.01 of the Revised Code. 16140

(2) In the case of watercraft, outboard motors, or new 16141
motor vehicles, "price" has the same meaning as in divisions (H) 16142
(2) and (3) of section 5739.01 of the Revised Code. 16143

(3) In the case of a nonresident business consumer that 16144
purchases and uses tangible personal property outside this state 16145
and subsequently temporarily stores, uses, or otherwise consumes 16146
such tangible personal property in the conduct of business in 16147
this state, the consumer or the tax commissioner may determine 16148
the price based on the value of the temporary storage, use, or 16149
other consumption, in lieu of determining the price pursuant to 16150
division (G) (1) of this section. A price determination made by 16151
the consumer is subject to review and redetermination by the 16152
commissioner. 16153

(4) In the case of tangible personal property held in this 16154

state as inventory for sale or lease, and that is temporarily 16155
stored, used, or otherwise consumed in a taxable manner, the 16156
price is the value of the temporary use. A price determination 16157
made by the consumer is subject to review and redetermination by 16158
the commissioner. 16159

(5) In the case of tangible personal property originally 16160
purchased and used by the consumer outside this state, and that 16161
becomes permanently stored, used, or otherwise consumed in this 16162
state more than six months after its acquisition by the 16163
consumer, the consumer or the commissioner may determine the 16164
price based on the current value of such tangible personal 16165
property, in lieu of determining the price pursuant to division 16166
(G) (1) of this section. A price determination made by the 16167
consumer is subject to review and redetermination by the 16168
commissioner. 16169

(6) If a consumer produces tangible personal property for 16170
sale and removes that property from inventory for the consumer's 16171
own use, the price is the produced cost of that tangible 16172
personal property. 16173

(H) "Nexus with this state" means that the seller engages 16174
in continuous and widespread solicitation of purchases from 16175
residents of this state or otherwise purposefully directs its 16176
business activities at residents of this state. 16177

(I) (1) "Substantial nexus with this state" means that the 16178
seller has sufficient contact with this state, in accordance 16179
with Section 8 of Article I of the Constitution of the United 16180
States, to allow the state to require the seller to collect and 16181
remit use tax on sales of tangible personal property or services 16182
made to consumers in this state. 16183

(2) "Substantial nexus with this state" is presumed to exist when the seller does any of the following:	16184 16185
(a) Uses an office, distribution facility, warehouse, storage facility, or similar place of business within this state, whether operated by the seller or any other person, other than a common carrier acting in its capacity as a common carrier.	16186 16187 16188 16189 16190
(b) Regularly uses employees, agents, representatives, solicitors, installers, repairers, salespersons, or other persons in this state for the purpose of conducting the business of the seller or either to engage in a business with the same or a similar industry classification as the seller selling a similar product or line of products as the seller, or to use trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the seller.	16191 16192 16193 16194 16195 16196 16197 16198
(c) Uses any person, other than a common carrier acting in its capacity as a common carrier, in this state for any of the following purposes:	16199 16200 16201
(i) Receiving or processing orders of the seller's goods or services;	16202 16203
(ii) Using that person's employees or facilities in this state to advertise, promote, or facilitate sales by the seller to customers;	16204 16205 16206
(iii) Delivering, installing, assembling, or performing maintenance services for the seller's customers;	16207 16208
(iv) Facilitating the seller's delivery of tangible personal property to customers in this state by allowing the seller's customers to pick up property sold by the seller at an office, distribution facility, warehouse, storage facility, or	16209 16210 16211 16212

similar place of business. 16213

(d) Makes regular deliveries of tangible personal property 16214
into this state by means other than common carrier. 16215

(e) Has an affiliated person that has substantial nexus 16216
with this state. 16217

(f) Owns tangible personal property that is rented or 16218
leased to a consumer in this state, or offers tangible personal 16219
property, on approval, to consumers in this state. 16220

(g) Enters into an agreement with one or more residents of 16221
this state under which the resident, for a commission or other 16222
consideration, directly or indirectly refers potential customers 16223
to the seller, whether by a link on a web site, an in-person 16224
oral presentation, telemarketing, or otherwise, provided the 16225
cumulative gross receipts from sales to consumers referred to 16226
the seller by all such residents exceeded ten thousand dollars 16227
during the preceding twelve months. 16228

(h) Uses in-state software to sell or lease taxable 16229
tangible personal property or services to consumers, provided 16230
the seller has gross receipts in excess of five hundred thousand 16231
dollars in the current or preceding calendar year from the sale 16232
of tangible personal property for storage, use, or consumption 16233
in this state or from providing services the benefit of which is 16234
realized in this state. 16235

(i) Provides or enters into an agreement with another 16236
person to provide a content ~~distribution-delivery~~ network in 16237
this state to accelerate or enhance the delivery of the seller's 16238
web site to consumers, provided the seller has gross receipts in 16239
excess of five hundred thousand dollars in the current or 16240
preceding calendar year from the sale of tangible personal 16241

property for storage, use, or consumption in this state or from 16242
providing services the benefit of which is realized in this 16243
state. 16244

(3) A seller presumed to have substantial nexus with this 16245
state under divisions (I) (2) (a) to (f), (h), and (i) of this 16246
section may rebut that presumption by demonstrating that 16247
activities described in any of those divisions that are 16248
conducted by a person in this state on the seller's behalf are 16249
not significantly associated with the seller's ability to 16250
establish or maintain a market in this state for the seller's 16251
sales. 16252

(4) A seller presumed to have substantial nexus with this 16253
state under division (I) (2) (g) of this section may rebut that 16254
presumption by submitting proof that each resident engaged by 16255
the seller as described in that division did not engage in any 16256
activity within this state during the preceding twelve months 16257
that was significantly associated with the seller's ability to 16258
establish or maintain the seller's market in this state during 16259
the preceding twelve months. Such proof may consist of sworn 16260
written statements from all the residents with whom the seller 16261
has an agreement stating that the resident did not engage in any 16262
solicitation in this state on behalf of the seller during the 16263
preceding twelve months if such statements are provided and 16264
obtained in good faith. 16265

(5) A seller that does not have substantial nexus with 16266
this state, and any affiliated person of the seller, before 16267
selling or leasing tangible personal property or services to a 16268
state agency, shall register with the tax commissioner in the 16269
same manner as a seller described in division (A) (1) of section 16270
5741.17 of the Revised Code. 16271

(6) As used in division (I) of this section:	16272
(a) "Affiliated person" means any person that is a member of the same controlled group of corporations as the seller or any other person that, notwithstanding the form of organization, bears the same ownership relationship to the seller as a corporation that is a member of the same controlled group of corporations.	16273 16274 16275 16276 16277 16278
(b) "Controlled group of corporations" has the same meaning as in section 1563(a) of the Internal Revenue Code.	16279 16280
(c) "State agency" has the same meaning as in section 1.60 of the Revised Code.	16281 16282
(d) "In-state software" means computer software, as that term is defined in section 5739.01 of the Revised Code, that is stored on property in this state or is distributed within this state for the purpose of facilitating a seller's sales.	16283 16284 16285 16286
(e) "Content delivery network" means a system of distributed servers that deliver web sites and other web content to a user based on the geographic location of the user, the origin of the web site or web content, and a content delivery server.	16287 16288 16289 16290 16291
(J) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board appointed pursuant to section 306.03 of the Revised Code or, if the board of county commissioners operates the county transit system, the county auditor.	16292 16293 16294 16295 16296 16297 16298
(K) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit	16299 16300

authority as they from time to time exist. Such territorial 16301
boundaries must at all times include all the area of a single 16302
county or all the area of the most populous county which is a 16303
part of such transit authority. County population shall be 16304
measured by the most recent census taken by the United States 16305
census bureau. 16306

(L) "Transit authority" means a regional transit authority 16307
created pursuant to section 306.31 of the Revised Code or a 16308
county in which a county transit system is created pursuant to 16309
section 306.01 of the Revised Code. For the purposes of this 16310
chapter, a transit authority must extend to at least the entire 16311
area of a single county. A transit authority which includes 16312
territory in more than one county must include all the area of 16313
the most populous county which is a part of such transit 16314
authority. County population shall be measured by the most 16315
recent census taken by the United States census bureau. 16316

(M) "Providing a service" has the same meaning as in 16317
section 5739.01 of the Revised Code. 16318

(N) "Other consumption" includes receiving the benefits of 16319
a service. 16320

(O) "Lease" or "rental" has the same meaning as in section 16321
5739.01 of the Revised Code. 16322

(P) "Certified service provider" has the same meaning as 16323
in section 5740.01 of the Revised Code. 16324

(Q) "Remote sale" means a sale for which the seller could 16325
not be legally required to pay, collect, or remit a tax imposed 16326
under this chapter or Chapter 5739. of the Revised Code, unless 16327
otherwise provided by the laws of the United States. 16328

(R) "Remote seller" means a seller that lacks substantial 16329

nexus with this state but is required to register with the tax commissioner under section 5741.17 of the Revised Code pursuant to federal law authorizing states to require such sellers to register, collect, and remit use tax. A seller that is not required to register with the commissioner under division (A) of section 5741.17 of the Revised Code but registers voluntarily under division (B) of that section is not a "remote seller." A seller that registers with the commissioner under section 5741.17 of the Revised Code after the effective date of any federal law that authorizes states to require sellers that lack substantial nexus with the state to register, collect, and remit use tax is presumed to be a "remote seller." The seller or the commissioner may rebut this presumption with evidence that the seller has substantial nexus with this state.

(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 persons with one or more ownership relationships shall be aggregated if those relationships were designed with the principal purpose to qualify as a remote small seller.

Sec. 5743.05. The tax commissioner shall sell all stamps provided for by section 5743.03 of the Revised Code. The stamps shall be sold at their face value, except the commissioner shall, by rule, authorize the sale of stamps to wholesale dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a

commission for affixing and canceling the stamps. 16361

The commissioner, by rule, shall authorize the delivery of 16362
stamps to wholesale dealers in this state and to wholesale 16363
dealers outside this state on credit. If such a dealer has not 16364
been in good credit standing with this state for five 16365
consecutive years preceding the purchase, the commissioner shall 16366
require the dealer to file with the commissioner a bond to the 16367
state in the amount and in the form prescribed by the 16368
commissioner, with surety to the satisfaction of the 16369
commissioner, conditioned on payment to the treasurer of state 16370
or the commissioner within thirty days or the following twenty- 16371
third day of June, whichever comes first for stamps delivered 16372
within that time. If such a dealer has been in good credit 16373
standing with this state for five consecutive years preceding 16374
the purchase, the commissioner shall not require that the dealer 16375
file such a bond but shall require payment for the stamps within 16376
thirty days after purchase of the stamps or the following 16377
twenty-third day of June, whichever comes first. Stamps sold to 16378
a dealer not required to file a bond shall be sold at face 16379
value. The maximum amount that may be sold on credit to a dealer 16380
not required to file a bond shall equal one hundred ten per cent 16381
of the dealer's average monthly purchases over the preceding 16382
calendar year. The maximum amount shall be adjusted to reflect 16383
any changes in the tax rate and may be adjusted, upon 16384
application to the commissioner by the dealer, to reflect 16385
changes in the business operations of the dealer. The maximum 16386
amount shall be applicable to the period between the first day 16387
of July to the following twenty-third day of June. Payment by a 16388
dealer not required to file a bond shall be remitted by 16389
electronic funds transfer as prescribed by section 5743.051 of 16390
the Revised Code. If a dealer not required to file a bond fails 16391

to make the payment in full within the required payment period, 16392
the commissioner shall not thereafter sell stamps to that dealer 16393
until the dealer pays the outstanding amount, including penalty 16394
and interest on that amount as prescribed in this chapter, and 16395
the commissioner thereafter may require the dealer to file a 16396
bond until the dealer is restored to good standing. The 16397
commissioner shall limit delivery of stamps on credit to the 16398
period running from the first day of July of the fiscal year 16399
until the twenty-third day of the following June. Any discount 16400
allowed as a commission for affixing and canceling stamps shall 16401
be allowed with respect to sales of stamps on credit. 16402

The commissioner shall redeem and pay for any destroyed, 16403
unused, or spoiled tax stamps at their net value, and shall 16404
refund to wholesale dealers the net amount of state and county 16405
taxes paid erroneously or paid on cigarettes that have been sold 16406
in interstate or foreign commerce or that have become unsalable, 16407
and the net amount of county taxes that were paid on cigarettes 16408
that have been sold at retail or for retail sale outside a 16409
taxing county. 16410

An application for a refund of tax shall be filed with the 16411
commissioner, on the form prescribed by the commissioner for 16412
that purpose, within three years from the date the tax stamps 16413
are destroyed or spoiled, from the date of the erroneous 16414
payment, or from the date that cigarettes on which taxes have 16415
been paid have been sold in interstate or foreign commerce or 16416
have become unsalable. 16417

On the filing of the application, the commissioner shall 16418
determine the amount of refund to which the applicant is 16419
entitled, payable from receipts of the state tax, and, if 16420
applicable, payable from receipts of a county tax. If the amount 16421

is not less than that claimed, the commissioner shall certify 16422
the amount to the director of budget and management and 16423
treasurer of state for payment from the tax refund fund created 16424
by section 5703.052 of the Revised Code. If the amount is less 16425
than that claimed, the commissioner shall proceed in accordance 16426
with section 5703.70 of the Revised Code. 16427

If a refund is granted for payment of an illegal or 16428
erroneous assessment issued by the department, the refund shall 16429
include interest on the amount of the refund from the date of 16430
the overpayment. The interest shall be computed at the rate per 16431
annum prescribed by section 5703.47 of the Revised Code. 16432

Sec. 5743.08. Whenever the tax commissioner discovers any 16433
cigarettes which are being shipped, or which have been shipped, 16434
or transported in violation of section 2927.023 of the Revised 16435
Code, or discovers cigarettes, subject to the taxes levied under 16436
section 5743.02, 5743.021, 5743.024, or 5743.026 of the Revised 16437
Code, and upon which the taxes have not been paid or that are 16438
held for sale or distribution in violation of any other 16439
provision of this chapter, the commissioner may seize and take 16440
possession of such cigarettes, which shall thereupon be 16441
forfeited to the state, and the commissioner, within a 16442
reasonable time thereafter shall sell or destroy the forfeited 16443
cigarettes. If the commissioner takes ~~possession~~ possession of 16444
cigarettes seized pursuant to section 3739.11 of the Revised 16445
Code, such cigarettes shall be forfeited to the state, and the 16446
commissioner shall destroy such cigarettes, except prior to the 16447
destruction of any such cigarettes, the true holder of the 16448
trademark rights in the cigarette brand shall be permitted to 16449
inspect the cigarettes. If the commissioner sells cigarettes 16450
under this section, the commissioner shall use proceeds from the 16451
sale to pay the costs incurred in the proceedings. Any proceeds 16452

remaining after all costs have been paid shall be considered 16453
revenue arising from the taxes levied under this chapter. 16454
Seizure and sale shall not be deemed to relieve any person from 16455
the fine or imprisonment provided for violation of sections 16456
5743.01 to 5743.20 of the Revised Code or from a civil penalty 16457
under section 3739.99 of the Revised Code. A sale shall be made 16458
where it is most convenient and economical. The tax commissioner 16459
may order the destruction of the forfeited cigarettes if the 16460
quantity or quality of the cigarettes is not sufficient to 16461
warrant their sale. 16462

Sec. 5743.33. Except as provided in section ~~5747.331~~ 16463
5743.331 of the Revised Code, every person who has acquired 16464
cigarettes for use, storage, or other consumption subject to the 16465
tax levied under section 5743.32, 5743.321, 5743.323, or 16466
5743.324 of the Revised Code, shall, on or before the fifteenth 16467
day of the month following receipt of such cigarettes, file with 16468
the tax commissioner a return showing the amount of cigarettes 16469
acquired, together with remittance of the tax thereon. No such 16470
person shall transport within this state, cigarettes that have a 16471
wholesale value in excess of three hundred dollars, unless that 16472
person has obtained consent to transport the cigarettes from the 16473
department of taxation prior to such transportation. Such 16474
consent shall not be required if the applicable taxes levied 16475
under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the 16476
Revised Code have been paid. Application for the consent shall 16477
be in the form prescribed by the tax commissioner. 16478

Every person transporting such cigarettes shall possess 16479
the consent while transporting or possessing the cigarettes 16480
within this state and shall produce the consent upon request of 16481
any law enforcement officer or authorized agent of the tax 16482
commissioner. 16483

Any person transporting such cigarettes without the consent required by this section, shall be subject to the provisions of this chapter, including the applicable taxes imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the Revised Code.

Sec. 5743.62. (A) To provide revenue for the general revenue fund of the state, an excise tax is hereby levied on the seller of tobacco products in this state at one of the following rates:

(1) For tobacco products other than little cigars or premium cigars, seventeen per cent of the wholesale price of the tobacco product whenever the tobacco product is delivered to a consumer in this state for the storage, use, or other consumption of such tobacco products.

(2) For little cigars, thirty-seven per cent of the wholesale price of the little cigars whenever the little cigars are delivered to a consumer in this state for the storage, use, or other consumption of the little cigars.

(3) For premium cigars, whenever the premium cigars are delivered to a consumer in this state for the storage, use, or other consumption of the premium cigars, the lesser of seventeen per cent of the wholesale price of such premium cigars or the maximum tax amount per each such premium cigar.

The tax imposed by this section applies only to sellers having nexus ~~in~~with this state, as defined in section 5741.01 of the Revised Code.

(B) A seller of tobacco products who has nexus ~~in~~with this state as defined in section 5741.01 of the Revised Code shall register with the tax commissioner and supply any

information concerning the seller's contacts with this state as 16513
may be required by the tax commissioner. A seller who does not 16514
have nexus ~~in~~ with this state may voluntarily register with the 16515
tax commissioner. A seller who voluntarily registers with the 16516
tax commissioner is entitled to the same benefits and is subject 16517
to the same duties and requirements as a seller required to be 16518
registered with the tax commissioner under this division. 16519

(C) Each seller of tobacco products subject to the tax 16520
levied by this section, on or before the last day of each month, 16521
shall file with the tax commissioner a return for the preceding 16522
month showing any information the tax commissioner finds 16523
necessary for the proper administration of sections 5743.51 to 16524
5743.66 of the Revised Code, together with remittance of the tax 16525
due, payable to the treasurer of state. The return and payment 16526
of the tax required by this section shall be filed in such a 16527
manner that it is received by the tax commissioner on or before 16528
the last day of the month following the reporting period. If the 16529
return is filed and the amount of the tax shown on the return to 16530
be due is paid on or before the date the return is required to 16531
be filed, the seller is entitled to a discount equal to two and 16532
five-tenths per cent of the amount shown on the return to be 16533
due. 16534

(D) The tax commissioner shall immediately forward to the 16535
treasurer of state all money received from the tax levied by 16536
this section, and the treasurer shall credit the amount to the 16537
general revenue fund. 16538

(E) Each seller of tobacco products subject to the tax 16539
levied by this section shall mark on the invoices of tobacco 16540
products sold that the tax levied by that section has been paid 16541
and shall indicate the seller's account number as assigned by 16542

the tax commissioner. 16543

Sec. 5743.65. No person required by division ~~(B)~~(C) of 16544
section 5743.62 or division (B) of section 5743.63 of the 16545
Revised Code to file a return with the tax commissioner shall 16546
fail to make the return or fail to pay the applicable taxes 16547
levied under section 5743.62 or 5743.63 of the Revised Code or 16548
fail to pay any lawful assessment issued by the tax 16549
commissioner. 16550

Sec. 5745.14. (A) If any of the facts, figures, 16551
computations, or attachments required in a taxpayer's report to 16552
determine the tax due a municipal corporation must be altered as 16553
the result of an adjustment to the taxpayer's federal income tax 16554
return, whether the adjustment is initiated by the taxpayer, the 16555
internal revenue service, or the tax commissioner, and such 16556
alteration affects the taxpayer's tax liability to a municipal 16557
corporation, the taxpayer shall file an amended report with the 16558
tax commissioner in such form as the commissioner requires. The 16559
amended report shall be filed not later than one year after the 16560
adjustment has been agreed to or finally determined. 16561

(B) In the case of an underpayment, the amended report 16562
shall be accompanied by payment of an additional tax and 16563
interest due and is a report subject to assessment under section 16564
5745.12 of the Revised Code for the purpose of assessing any 16565
additional tax due under this division, together with any 16566
applicable penalty and interest. It shall not reopen those 16567
facts, figures, computations, or attachments from a previously 16568
filed report no longer subject to assessment that are not 16569
affected, either directly or indirectly, by the adjustment to 16570
the taxpayer's federal income tax return. 16571

(C) In the case of an overpayment, an application for 16572

refund may be filed under section 5745.11 of the Revised Code 16573
within the one-year period prescribed for filing the amended 16574
report even if it is filed beyond the period prescribed by that 16575
section, if it otherwise conforms to the requirements of such 16576
section. An application filed under this division shall claim 16577
refund of overpayments resulting from alterations to only those 16578
facts, figures, computations, or attachments required in the 16579
taxpayer's report that are affected, either directly or 16580
indirectly, by the adjustment to the taxpayer's federal income 16581
tax return unless it is also filed within the time prescribed by 16582
section 5745.11 of the Revised Code. It shall not reopen those 16583
facts, figures, computations, or attachments that are not 16584
affected, either directly or indirectly, by the adjustment to 16585
the taxpayer's federal income tax return. 16586

Sec. 5747.01. Except as otherwise expressly provided or 16587
clearly appearing from the context, any term used in this 16588
chapter that is not otherwise defined in this section has the 16589
same meaning as when used in a comparable context in the laws of 16590
the United States relating to federal income taxes or if not 16591
used in a comparable context in those laws, has the same meaning 16592
as in section 5733.40 of the Revised Code. Any reference in this 16593
chapter to the Internal Revenue Code includes other laws of the 16594
United States relating to federal income taxes. 16595

As used in this chapter: 16596

(A) "Adjusted gross income" or "Ohio adjusted gross 16597
income" means federal adjusted gross income, as defined and used 16598
in the Internal Revenue Code, adjusted as provided in this 16599
section: 16600

(1) Add interest or dividends on obligations or securities 16601
of any state or of any political subdivision or authority of any 16602

state, other than this state and its subdivisions and 16603
authorities. 16604

(2) Add interest or dividends on obligations of any 16605
authority, commission, instrumentality, territory, or possession 16606
of the United States to the extent that the interest or 16607
dividends are exempt from federal income taxes but not from 16608
state income taxes. 16609

(3) Deduct interest or dividends on obligations of the 16610
United States and its territories and possessions or of any 16611
authority, commission, or instrumentality of the United States 16612
to the extent that the interest or dividends are included in 16613
federal adjusted gross income but exempt from state income taxes 16614
under the laws of the United States. 16615

(4) Deduct disability and survivor's benefits to the 16616
extent included in federal adjusted gross income. 16617

(5) Deduct benefits under Title II of the Social Security 16618
Act and tier 1 railroad retirement benefits to the extent 16619
included in federal adjusted gross income under section 86 of 16620
the Internal Revenue Code. 16621

~~(6) In the case of a taxpayer who is a beneficiary of a 16622
trust that makes an accumulation distribution as defined in 16623
section 665 of the Internal Revenue Code, add, for the 16624
beneficiary's taxable years beginning before 2002, the portion, 16625
if any, of such distribution that does not exceed the 16626
undistributed net income of the trust for the three taxable 16627
years preceding the taxable year in which the distribution is 16628
made to the extent that the portion was not included in the 16629
trust's taxable income for any of the trust's taxable years 16630
beginning in 2002 or thereafter. "Undistributed net income of a 16631~~

~~trust" means the taxable income of the trust increased by (a) (i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b) (i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.~~

~~(7)~~ Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

~~(8)~~ (7) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

~~(9)~~ (8) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

~~(10)~~ (9) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units

purchased pursuant to Chapter 3334. of the Revised Code. 16662

~~(11)~~(10) (a) Deduct, to the extent not otherwise allowable 16663
as a deduction or exclusion in computing federal or Ohio 16664
adjusted gross income for the taxable year, the amount the 16665
taxpayer paid during the taxable year for medical care insurance 16666
and qualified long-term care insurance for the taxpayer, the 16667
taxpayer's spouse, and dependents. No deduction for medical care 16668
insurance under division (A) ~~(11)~~(10) of this section shall be 16669
allowed either to any taxpayer who is eligible to participate in 16670
any subsidized health plan maintained by any employer of the 16671
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 16672
entitled to, or on application would be entitled to, benefits 16673
under part A of Title XVIII of the "Social Security Act," 49 16674
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 16675
division (A) ~~(11)~~(10) (a) of this section, "subsidized health 16676
plan" means a health plan for which the employer pays any 16677
portion of the plan's cost. The deduction allowed under division 16678
(A) ~~(11)~~(10) (a) of this section shall be the net of any related 16679
premium refunds, related premium reimbursements, or related 16680
insurance premium dividends received during the taxable year. 16681

(b) Deduct, to the extent not otherwise deducted or 16682
excluded in computing federal or Ohio adjusted gross income 16683
during the taxable year, the amount the taxpayer paid during the 16684
taxable year, not compensated for by any insurance or otherwise, 16685
for medical care of the taxpayer, the taxpayer's spouse, and 16686
dependents, to the extent the expenses exceed seven and one-half 16687
per cent of the taxpayer's federal adjusted gross income. 16688

~~(c) Deduct, to the extent not otherwise deducted or~~ 16689
~~excluded in computing federal or Ohio adjusted gross income, any~~ 16690
~~amount included in federal adjusted gross income under section~~ 16691

~~105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.~~ 16692
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~~(d)~~ For purposes of division (A) ~~(11)~~ (10) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of ~~divisions~~ division (A) ~~(11)~~ (10) (a) ~~and (e)~~ of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code. 16699
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~~(12)~~ (11) (a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A) ~~(12)~~ (11) (a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year. 16711
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(b) Add any amount not otherwise included in Ohio adjusted 16721

gross income for any taxable year to the extent that the amount 16722
is attributable to the recovery during the taxable year of any 16723
amount deducted or excluded in computing federal or Ohio 16724
adjusted gross income in any taxable year. 16725

(13) Deduct any portion of the deduction described in 16726
section 1341(a)(2) of the Internal Revenue Code, for repaying 16727
previously reported income received under a claim of right, that 16728
meets both of the following requirements: 16729

(a) It is allowable for repayment of an item that was 16730
included in the taxpayer's adjusted gross income for a prior 16731
taxable year and did not qualify for a credit under division (A) 16732
or (B) of section 5747.05 of the Revised Code for that year; 16733

(b) It does not otherwise reduce the taxpayer's adjusted 16734
gross income for the current or any other taxable year. 16735

~~(14)~~(13) Deduct an amount equal to the deposits made to, 16736
and net investment earnings of, a medical savings account during 16737
the taxable year, in accordance with section 3924.66 of the 16738
Revised Code. The deduction allowed by division (A) ~~(14)~~(13) of 16739
this section does not apply to medical savings account deposits 16740
and earnings otherwise deducted or excluded for the current or 16741
any other taxable year from the taxpayer's federal adjusted 16742
gross income. 16743

~~(15)~~(14) (a) Add an amount equal to the funds withdrawn 16744
from a medical savings account during the taxable year, and the 16745
net investment earnings on those funds, when the funds withdrawn 16746
were used for any purpose other than to reimburse an account 16747
holder for, or to pay, eligible medical expenses, in accordance 16748
with section 3924.66 of the Revised Code; 16749

(b) Add the amounts distributed from a medical savings 16750

account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year. 16751
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~~(16)~~ (15) Add any amount claimed as a credit under section 5747.059 or 5747.65 of the Revised Code to the extent that such amount satisfies either of the following: 16753
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(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code; 16756
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(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code. 16760
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~~(17)~~ (16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) ~~(17)~~ (16) of this section. 16763
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~~(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for~~ 16772
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~~qualified tuition and fees paid to an eligible institution for
the taxpayer, the taxpayer's spouse, or any dependent of the
taxpayer, who is a resident of this state and is enrolled in or
attending a program that culminates in a degree or diploma at an
eligible institution. The deduction may be claimed only to the
extent that qualified tuition and fees are not otherwise
deducted or excluded for any taxable year from federal or Ohio
adjusted gross income. The deduction may not be claimed for
educational expenses for which the taxpayer claims a credit
under section 5747.27 of the Revised Code.~~

~~(19) Add any reimbursement received during the taxable
year of any amount the taxpayer deducted under division (A) (18)
of this section in any previous taxable year to the extent the
amount is not otherwise included in Ohio adjusted gross income.~~

~~(20)(17) (a) (i) Subject to divisions (A) (20)(17) (a) (iii),
(iv), and (v) of this section, add five-sixths of the amount of
depreciation expense allowed by subsection (k) of section 168 of
the Internal Revenue Code, including the taxpayer's
proportionate or distributive share of the amount of
depreciation expense allowed by that subsection to a pass-
through entity in which the taxpayer has a direct or indirect
ownership interest.~~

~~(ii) Subject to divisions (A) (20)(17) (a) (iii), (iv), and
(v) of this section, add five-sixths of the amount of qualifying
section 179 depreciation expense, including the taxpayer's
proportionate or distributive share of the amount of qualifying
section 179 depreciation expense allowed to any pass-through
entity in which the taxpayer has a direct or indirect ownership
interest.~~

~~(iii) Subject to division (A) (20)(17) (a) (v) of this~~

section, for taxable years beginning in 2012 or thereafter, if 16810
the increase in income taxes withheld by the taxpayer is equal 16811
to or greater than ten per cent of income taxes withheld by the 16812
taxpayer during the taxpayer's immediately preceding taxable 16813
year, "two-thirds" shall be substituted for "five-sixths" for 16814
the purpose of divisions (A) ~~(20)~~ (17) (a) (i) and (ii) of this 16815
section. 16816

(iv) Subject to division (A) ~~(20)~~ (17) (a) (v) of this 16817
section, for taxable years beginning in 2012 or thereafter, a 16818
taxpayer is not required to add an amount under division (A) ~~(20)~~ 16819
(17) of this section if the increase in income taxes withheld by 16820
the taxpayer and by any pass-through entity in which the 16821
taxpayer has a direct or indirect ownership interest is equal to 16822
or greater than the sum of (I) the amount of qualifying section 16823
179 depreciation expense and (II) the amount of depreciation 16824
expense allowed to the taxpayer by subsection (k) of section 168 16825
of the Internal Revenue Code, and including the taxpayer's 16826
proportionate or distributive shares of such amounts allowed to 16827
any such pass-through entities. 16828

(v) If a taxpayer directly or indirectly incurs a net 16829
operating loss for the taxable year for federal income tax 16830
purposes, to the extent such loss resulted from depreciation 16831
expense allowed by subsection (k) of section 168 of the Internal 16832
Revenue Code and by qualifying section 179 depreciation expense, 16833
"the entire" shall be substituted for "five-sixths of the" for 16834
the purpose of divisions (A) ~~(20)~~ (17) (a) (i) and (ii) of this 16835
section. 16836

The tax commissioner, under procedures established by the 16837
commissioner, may waive the add-backs related to a pass-through 16838
entity if the taxpayer owns, directly or indirectly, less than 16839

five per cent of the pass-through entity. 16840

(b) Nothing in division (A) ~~(20)~~ (17) of this section shall 16841
be construed to adjust or modify the adjusted basis of any 16842
asset. 16843

(c) To the extent the add-back required under division (A) 16844
~~(20)~~ (17) (a) of this section is attributable to property 16845
generating nonbusiness income or loss allocated under section 16846
5747.20 of the Revised Code, the add-back shall be situated to 16847
the same location as the nonbusiness income or loss generated by 16848
the property for the purpose of determining the credit under 16849
division (A) of section 5747.05 of the Revised Code. Otherwise, 16850
the add-back shall be apportioned, subject to one or more of the 16851
four alternative methods of apportionment enumerated in section 16852
5747.21 of the Revised Code. 16853

(d) For the purposes of division (A) ~~(20)~~ (17) (a) (v) of this 16854
section, net operating loss carryback and carryforward shall not 16855
include the allowance of any net operating loss deduction 16856
carryback or carryforward to the taxable year to the extent such 16857
loss resulted from depreciation allowed by section 168(k) of the 16858
Internal Revenue Code and by the qualifying section 179 16859
depreciation expense amount. 16860

(e) For the purposes of divisions (A) ~~(20)~~ (17) and ~~(21)~~ 16861
(18) of this section: 16862

(i) "Income taxes withheld" means the total amount 16863
withheld and remitted under sections 5747.06 and 5747.07 of the 16864
Revised Code by an employer during the employer's taxable year. 16865

(ii) "Increase in income taxes withheld" means the amount 16866
by which the amount of income taxes withheld by an employer 16867
during the employer's current taxable year exceeds the amount of 16868

income taxes withheld by that employer during the employer's 16869
immediately preceding taxable year. 16870

(iii) "Qualifying section 179 depreciation expense" means 16871
the difference between (I) the amount of depreciation expense 16872
directly or indirectly allowed to a taxpayer under section 179 16873
of the Internal Revised Code, and (II) the amount of 16874
depreciation expense directly or indirectly allowed to the 16875
taxpayer under section 179 of the Internal Revenue Code as that 16876
section existed on December 31, 2002. 16877

~~(21)~~(18)(a) If the taxpayer was required to add an amount 16878
under division (A) ~~(20)~~(17)(a) of this section for a taxable 16879
year, deduct one of the following: 16880

(i) One-fifth of the amount so added for each of the five 16881
succeeding taxable years if the amount so added was five-sixths 16882
of qualifying section 179 depreciation expense or depreciation 16883
expense allowed by subsection (k) of section 168 of the Internal 16884
Revenue Code; 16885

(ii) One-half of the amount so added for each of the two 16886
succeeding taxable years if the amount so added was two-thirds 16887
of such depreciation expense; 16888

(iii) One-sixth of the amount so added for each of the six 16889
succeeding taxable years if the entire amount of such 16890
depreciation expense was so added. 16891

(b) If the amount deducted under division (A) ~~(21)~~(18)(a) 16892
of this section is attributable to an add-back allocated under 16893
division (A) ~~(20)~~(17)(c) of this section, the amount deducted 16894
shall be situated to the same location. Otherwise, the add-back 16895
shall be apportioned using the apportionment factors for the 16896
taxable year in which the deduction is taken, subject to one or 16897

more of the four alternative methods of apportionment enumerated 16898
in section 5747.21 of the Revised Code. 16899

(c) No deduction is available under division (A) ~~(21)~~ (18) 16900
(a) of this section with regard to any depreciation allowed by 16901
section 168(k) of the Internal Revenue Code and by the 16902
qualifying section 179 depreciation expense amount to the extent 16903
that such depreciation results in or increases a federal net 16904
operating loss carryback or carryforward. If no such deduction 16905
is available for a taxable year, the taxpayer may carry forward 16906
the amount not deducted in such taxable year to the next taxable 16907
year and add that amount to any deduction otherwise available 16908
under division (A) ~~(21)~~ (18) (a) of this section for that next 16909
taxable year. The carryforward of amounts not so deducted shall 16910
continue until the entire addition required by division (A) ~~(20)~~ 16911
(17) (a) of this section has been deducted. 16912

~~(d) No refund shall be allowed as a result of adjustments 16913
made by division (A) (21) of this section. 16914~~

~~(22)~~ (19) Deduct, to the extent not otherwise deducted or 16915
excluded in computing federal or Ohio adjusted gross income for 16916
the taxable year, the amount the taxpayer received during the 16917
taxable year as reimbursement for life insurance premiums under 16918
section 5919.31 of the Revised Code. 16919

~~(23)~~ (20) Deduct, to the extent not otherwise deducted or 16920
excluded in computing federal or Ohio adjusted gross income for 16921
the taxable year, the amount the taxpayer received during the 16922
taxable year as a death benefit paid by the adjutant general 16923
under section 5919.33 of the Revised Code. 16924

~~(24)~~ (21) Deduct, to the extent included in federal 16925
adjusted gross income and not otherwise allowable as a deduction 16926

or exclusion in computing federal or Ohio adjusted gross income 16927
for the taxable year, military pay and allowances received by 16928
the taxpayer during the taxable year for active duty service in 16929
the United States army, air force, navy, marine corps, or coast 16930
guard or reserve components thereof or the national guard. The 16931
deduction may not be claimed for military pay and allowances 16932
received by the taxpayer while the taxpayer is stationed in this 16933
state. 16934

~~(25)~~ (22) Deduct, to the extent not otherwise allowable as 16935
a deduction or exclusion in computing federal or Ohio adjusted 16936
gross income for the taxable year and not otherwise compensated 16937
for by any other source, the amount of qualified organ donation 16938
expenses incurred by the taxpayer during the taxable year, not 16939
to exceed ten thousand dollars. A taxpayer may deduct qualified 16940
organ donation expenses only once for all taxable years 16941
beginning with taxable years beginning in 2007. 16942

For the purposes of division (A) ~~(25)~~ (22) of this section: 16943

(a) "Human organ" means all or any portion of a human 16944
liver, pancreas, kidney, intestine, or lung, and any portion of 16945
human bone marrow. 16946

(b) "Qualified organ donation expenses" means travel 16947
expenses, lodging expenses, and wages and salary forgone by a 16948
taxpayer in connection with the taxpayer's donation, while 16949
living, of one or more of the taxpayer's human organs to another 16950
human being. 16951

~~(26)~~ (23) Deduct, to the extent not otherwise deducted or 16952
excluded in computing federal or Ohio adjusted gross income for 16953
the taxable year, amounts received by the taxpayer as retired 16954
personnel pay for service in the uniformed services or reserve 16955

components thereof, or the national guard, or received by the 16956
surviving spouse or former spouse of such a taxpayer under the 16957
survivor benefit plan on account of such a taxpayer's death. If 16958
the taxpayer receives income on account of retirement paid under 16959
the federal civil service retirement system or federal employees 16960
retirement system, or under any successor retirement program 16961
enacted by the congress of the United States that is established 16962
and maintained for retired employees of the United States 16963
government, and such retirement income is based, in whole or in 16964
part, on credit for the taxpayer's uniformed service, the 16965
deduction allowed under this division shall include only that 16966
portion of such retirement income that is attributable to the 16967
taxpayer's uniformed service, to the extent that portion of such 16968
retirement income is otherwise included in federal adjusted 16969
gross income and is not otherwise deducted under this section. 16970
Any amount deducted under division (A) ~~(26)~~ (23) of this section 16971
is not included in a taxpayer's adjusted gross income for the 16972
purposes of section 5747.055 of the Revised Code. No amount may 16973
be deducted under division (A) ~~(26)~~ (23) of this section on the 16974
basis of which a credit was claimed under section 5747.055 of 16975
the Revised Code. 16976

~~(27)~~ (24) Deduct, to the extent not otherwise deducted or 16977
excluded in computing federal or Ohio adjusted gross income for 16978
the taxable year, the amount the taxpayer received during the 16979
taxable year from the military injury relief fund created in 16980
section 5902.05 of the Revised Code. 16981

~~(28)~~ (25) Deduct, to the extent not otherwise deducted or 16982
excluded in computing federal or Ohio adjusted gross income for 16983
the taxable year, the amount the taxpayer received as a veterans 16984
bonus during the taxable year from the Ohio department of 16985
veterans services as authorized by Section 2r of Article VIII, 16986

Ohio Constitution. 16987

~~(29)~~ (26) Deduct, to the extent not otherwise deducted or 16988
excluded in computing federal or Ohio adjusted gross income for 16989
the taxable year, any income derived from a transfer agreement 16990
or from the enterprise transferred under that agreement under 16991
section 4313.02 of the Revised Code. 16992

~~(30)~~ (27) Deduct, to the extent not otherwise deducted or 16993
excluded in computing federal or Ohio adjusted gross income for 16994
the taxable year, Ohio college opportunity or federal Pell grant 16995
amounts received by the taxpayer or the taxpayer's spouse or 16996
dependent pursuant to section 3333.122 of the Revised Code or 20 16997
U.S.C. 1070a, et seq., and used to pay room or board furnished 16998
by the educational institution for which the grant was awarded 16999
at the institution's facilities, including meal plans 17000
administered by the institution. For the purposes of this 17001
division, receipt of a grant includes the distribution of a 17002
grant directly to an educational institution and the crediting 17003
of the grant to the enrollee's account with the institution. 17004

~~(31) (a) For taxable years beginning in 2015, deduct from 17005
the portion of an individual's adjusted gross income that is 17006
business income, to the extent not otherwise deducted or 17007
excluded in computing federal or Ohio adjusted gross income for 17008
the taxable year, the lesser of the following amounts: 17009~~

~~(i) Seventy five per cent of the individual's business 17010
income; 17011~~

~~(ii) Ninety three thousand seven hundred fifty dollars for 17012
each spouse if spouses file separate returns under section 17013
5747.08 of the Revised Code or one hundred eighty seven thousand 17014
five hundred dollars for all other individuals. 17015~~

~~(b)~~ For taxable years beginning in 2016 or thereafter, 17016
~~deduct~~ (28) Deduct from the portion of an individual's adjusted 17017
gross income that is business income, to the extent not 17018
otherwise deducted or excluded in computing federal adjusted 17019
gross income for the taxable year, one hundred twenty-five 17020
thousand dollars for each spouse if spouses file separate 17021
returns under section 5747.08 of the Revised Code or two hundred 17022
fifty thousand dollars for all other individuals. 17023

~~(32)~~ (29) Deduct, as provided under section 5747.78 of the 17024
Revised Code, contributions to ABLE savings accounts made in 17025
accordance with sections 113.50 to 113.56 of the Revised Code. 17026

~~(33)~~ (30) (a) Deduct, to the extent not otherwise deducted 17027
or excluded in computing federal or Ohio adjusted gross income 17028
during the taxable year, all of the following: 17029

(i) Compensation paid to a qualifying employee described 17030
in division (A) (14) (a) of section 5703.94 of the Revised Code to 17031
the extent such compensation is for disaster work conducted in 17032
this state during a disaster response period pursuant to a 17033
qualifying solicitation received by the employee's employer; 17034

(ii) Compensation paid to a qualifying employee described 17035
in division (A) (14) (b) of section 5703.94 of the Revised Code to 17036
the extent such compensation is for disaster work conducted in 17037
this state by the employee during the disaster response period 17038
on critical infrastructure owned or used by the employee's 17039
employer; 17040

(iii) Income received by an out-of-state disaster business 17041
for disaster work conducted in this state during a disaster 17042
response period, or, if the out-of-state disaster business is a 17043
pass-through entity, a taxpayer's distributive share of the 17044

pass-through entity's income from the business conducting 17045
disaster work in this state during a disaster response period, 17046
if, in either case, the disaster work is conducted pursuant to a 17047
qualifying solicitation received by the business. 17048

(b) All terms used in division (A) ~~(33)~~ (30) of this 17049
section have the same meanings as in section 5703.94 of the 17050
Revised Code. 17051

(B) "Business income" means income, including gain or 17052
loss, arising from transactions, activities, and sources in the 17053
regular course of a trade or business and includes income, gain, 17054
or loss from real property, tangible property, and intangible 17055
property if the acquisition, rental, management, and disposition 17056
of the property constitute integral parts of the regular course 17057
of a trade or business operation. "Business income" includes 17058
income, including gain or loss, from a partial or complete 17059
liquidation of a business, including, but not limited to, gain 17060
or loss from the sale or other disposition of goodwill. 17061

(C) "Nonbusiness income" means all income other than 17062
business income and may include, but is not limited to, 17063
compensation, rents and royalties from real or tangible personal 17064
property, capital gains, interest, dividends and distributions, 17065
patent or copyright royalties, or lottery winnings, prizes, and 17066
awards. 17067

(D) "Compensation" means any form of remuneration paid to 17068
an employee for personal services. 17069

(E) "Fiduciary" means a guardian, trustee, executor, 17070
administrator, receiver, conservator, or any other person acting 17071
in any fiduciary capacity for any individual, trust, or estate. 17072

(F) "Fiscal year" means an accounting period of twelve 17073

months ending on the last day of any month other than December. 17074

(G) "Individual" means any natural person. 17075

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 17076
17077

(I) "Resident" means any of the following, ~~provided that division (I) (3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:~~ 17078
17079
17080

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code; 17081
17082

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I) (2) of this section. 17083
17084
17085
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(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part. 17087
17088
17089

For the purposes of division (I) (3) of this section: 17090

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I) (3) (d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following: 17091
17092
17093
17094
17095
17096

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I) (3) (e) (i) or (ii) of this section; 17097
17098
17099
17100

(ii) A person who was domiciled in this state for the 17101
purposes of this chapter when the person directly or indirectly 17102
transferred assets to an irrevocable trust, but only if at least 17103
one of the trust's qualifying beneficiaries is domiciled in this 17104
state for the purposes of this chapter during all or some 17105
portion of the trust's current taxable year; 17106

(iii) A person who was domiciled in this state for the 17107
purposes of this chapter when the trust document or instrument 17108
or part of the trust document or instrument became irrevocable, 17109
but only if at least one of the trust's qualifying beneficiaries 17110
is a resident domiciled in this state for the purposes of this 17111
chapter during all or some portion of the trust's current 17112
taxable year. If a trust document or instrument became 17113
irrevocable upon the death of a person who at the time of death 17114
was domiciled in this state for purposes of this chapter, that 17115
person is a person described in division (I) (3) (a) (iii) of this 17116
section. 17117

(b) A trust is irrevocable to the extent that the 17118
transferor is not considered to be the owner of the net assets 17119
of the trust under sections 671 to 678 of the Internal Revenue 17120
Code. 17121

(c) With respect to a trust other than a charitable lead 17122
trust, "qualifying beneficiary" has the same meaning as 17123
"potential current beneficiary" as defined in section 1361(e) (2) 17124
of the Internal Revenue Code, and with respect to a charitable 17125
lead trust "qualifying beneficiary" is any current, future, or 17126
contingent beneficiary, but with respect to any trust 17127
"qualifying beneficiary" excludes a person or a governmental 17128
entity or instrumentality to any of which a contribution would 17129
qualify for the charitable deduction under section 170 of the 17130

Internal Revenue Code. 17131

(d) For the purposes of division (I)(3)(a) of this 17132
section, the extent to which a trust consists directly or 17133
indirectly, in whole or in part, of assets, net of any related 17134
liabilities, that were transferred directly or indirectly, in 17135
whole or part, to the trust by any of the sources enumerated in 17136
that division shall be ascertained by multiplying the fair 17137
market value of the trust's assets, net of related liabilities, 17138
by the qualifying ratio, which shall be computed as follows: 17139

(i) The first time the trust receives assets, the 17140
numerator of the qualifying ratio is the fair market value of 17141
those assets at that time, net of any related liabilities, from 17142
sources enumerated in division (I)(3)(a) of this section. The 17143
denominator of the qualifying ratio is the fair market value of 17144
all the trust's assets at that time, net of any related 17145
liabilities. 17146

(ii) Each subsequent time the trust receives assets, a 17147
revised qualifying ratio shall be computed. The numerator of the 17148
revised qualifying ratio is the sum of (1) the fair market value 17149
of the trust's assets immediately prior to the subsequent 17150
transfer, net of any related liabilities, multiplied by the 17151
qualifying ratio last computed without regard to the subsequent 17152
transfer, and (2) the fair market value of the subsequently 17153
transferred assets at the time transferred, net of any related 17154
liabilities, from sources enumerated in division (I)(3)(a) of 17155
this section. The denominator of the revised qualifying ratio is 17156
the fair market value of all the trust's assets immediately 17157
after the subsequent transfer, net of any related liabilities. 17158

(iii) Whether a transfer to the trust is by or from any of 17159
the sources enumerated in division (I)(3)(a) of this section 17160

shall be ascertained without regard to the domicile of the trust's beneficiaries.

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

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

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

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

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

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities,

while the decedent was domiciled in this state for the purposes 17190
of this chapter, and prior to the death of the decedent the 17191
trust became irrevocable while the decedent was domiciled in 17192
this state for the purposes of this chapter. 17193

(iii) The transfer is made on account of a contractual 17194
relationship existing directly or indirectly between the 17195
transferor and either the decedent or the estate of the decedent 17196
at any time prior to the date of the decedent's death, and the 17197
decedent was domiciled in this state at the time of death for 17198
purposes of the taxes levied under Chapter 5731. of the Revised 17199
Code. 17200

(iv) The transfer is made to a trust on account of a 17201
contractual relationship existing directly or indirectly between 17202
the transferor and another person who at the time of the 17203
decedent's death was domiciled in this state for purposes of 17204
this chapter. 17205

(v) The transfer is made to a trust on account of the will 17206
of a testator who was domiciled in this state at the time of the 17207
testator's death for purposes of the taxes levied under Chapter 17208
5731. of the Revised Code. 17209

(vi) The transfer is made to a trust created by or caused 17210
to be created by a court, and the trust was directly or 17211
indirectly created in connection with or as a result of the 17212
death of an individual who, for purposes of the taxes levied 17213
under Chapter 5731. of the Revised Code, was domiciled in this 17214
state at the time of the individual's death. 17215

(g) The tax commissioner may adopt rules to ascertain the 17216
part of a trust residing in this state. 17217

(J) "Nonresident" means an individual or estate that is 17218

not a resident. An individual who is a resident for only part of 17219
a taxable year is a nonresident for the remainder of that 17220
taxable year. 17221

(K) "Pass-through entity" has the same meaning as in 17222
section 5733.04 of the Revised Code. 17223

(L) "Return" means the notifications and reports required 17224
to be filed pursuant to this chapter for the purpose of 17225
reporting the tax due and includes declarations of estimated tax 17226
when so required. 17227

(M) "Taxable year" means the calendar year or the 17228
taxpayer's fiscal year ending during the calendar year, or 17229
fractional part thereof, upon which the adjusted gross income is 17230
calculated pursuant to this chapter. 17231

(N) "Taxpayer" means any person subject to the tax imposed 17232
by section 5747.02 of the Revised Code or any pass-through 17233
entity that makes the election under division (D) of section 17234
5747.08 of the Revised Code. 17235

(O) "Dependents" means dependents as defined in the 17236
Internal Revenue Code and as claimed in the taxpayer's federal 17237
income tax return for the taxable year or which the taxpayer 17238
would have been permitted to claim had the taxpayer filed a 17239
federal income tax return. 17240

(P) "Principal county of employment" means, in the case of 17241
a nonresident, the county within the state in which a taxpayer 17242
performs services for an employer or, if those services are 17243
performed in more than one county, the county in which the major 17244
portion of the services are performed. 17245

(Q) As used in sections 5747.50 to 5747.55 of the Revised 17246
Code: 17247

- (1) "Subdivision" means any county, municipal corporation, park district, or township. 17248
17249
- (2) "Essential local government purposes" includes all 17250
functions that any subdivision is required by general law to 17251
exercise, including like functions that are exercised under a 17252
charter adopted pursuant to the Ohio Constitution. 17253
- (R) "Overpayment" means any amount already paid that 17254
exceeds the figure determined to be the correct amount of the 17255
tax. 17256
- (S) "Taxable income" or "Ohio taxable income" applies only 17257
to estates and trusts, and means federal taxable income, as 17258
defined and used in the Internal Revenue Code, adjusted as 17259
follows: 17260
- (1) Add interest or dividends, net of ordinary, necessary, 17261
and reasonable expenses not deducted in computing federal 17262
taxable income, on obligations or securities of any state or of 17263
any political subdivision or authority of any state, other than 17264
this state and its subdivisions and authorities, but only to the 17265
extent that such net amount is not otherwise includible in Ohio 17266
taxable income and is described in either division (S) (1) (a) or 17267
(b) of this section: 17268
- (a) The net amount is not attributable to the S portion of 17269
an electing small business trust and has not been distributed to 17270
beneficiaries for the taxable year; 17271
- (b) The net amount is attributable to the S portion of an 17272
electing small business trust for the taxable year. 17273
- (2) Add interest or dividends, net of ordinary, necessary, 17274
and reasonable expenses not deducted in computing federal 17275
taxable income, on obligations of any authority, commission, 17276

instrumentality, territory, or possession of the United States 17277
to the extent that the interest or dividends are exempt from 17278
federal income taxes but not from state income taxes, but only 17279
to the extent that such net amount is not otherwise includible 17280
in Ohio taxable income and is described in either division (S) 17281
(1) (a) or (b) of this section; 17282

(3) Add the amount of personal exemption allowed to the 17283
estate pursuant to section 642(b) of the Internal Revenue Code; 17284

(4) Deduct interest or dividends, net of related expenses 17285
deducted in computing federal taxable income, on obligations of 17286
the United States and its territories and possessions or of any 17287
authority, commission, or instrumentality of the United States 17288
to the extent that the interest or dividends are exempt from 17289
state taxes under the laws of the United States, but only to the 17290
extent that such amount is included in federal taxable income 17291
and is described in either division (S) (1) (a) or (b) of this 17292
section; 17293

(5) Deduct the amount of wages and salaries, if any, not 17294
otherwise allowable as a deduction but that would have been 17295
allowable as a deduction in computing federal taxable income for 17296
the taxable year, had the targeted jobs credit allowed under 17297
sections 38, 51, and 52 of the Internal Revenue Code not been in 17298
effect, but only to the extent such amount relates either to 17299
income included in federal taxable income for the taxable year 17300
or to income of the S portion of an electing small business 17301
trust for the taxable year; 17302

(6) Deduct any interest or interest equivalent, net of 17303
related expenses deducted in computing federal taxable income, 17304
on public obligations and purchase obligations, but only to the 17305
extent that such net amount relates either to income included in 17306

federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

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

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

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

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

(10) Deduct any portion of the deduction described in 17336
section 1341(a) (2) of the Internal Revenue Code, for repaying 17337
previously reported income received under a claim of right, that 17338
meets both of the following requirements: 17339

(a) It is allowable for repayment of an item that was 17340
included in the taxpayer's taxable income or the decedent's 17341
adjusted gross income for a prior taxable year and did not 17342
qualify for a credit under division (A) or (B) of section 17343
5747.05 of the Revised Code for that year. 17344

(b) It does not otherwise reduce the taxpayer's taxable 17345
income or the decedent's adjusted gross income for the current 17346
or any other taxable year. 17347

(11) Add any amount claimed as a credit under section 17348
5747.059 or 5747.65 of the Revised Code to the extent that the 17349
amount satisfies either of the following: 17350

(a) The amount was deducted or excluded from the 17351
computation of the taxpayer's federal taxable income as required 17352
to be reported for the taxpayer's taxable year under the 17353
Internal Revenue Code; 17354

(b) The amount resulted in a reduction in the taxpayer's 17355
federal taxable income as required to be reported for any of the 17356
taxpayer's taxable years under the Internal Revenue Code. 17357

(12) Deduct any amount, net of related expenses deducted 17358
in computing federal taxable income, that a trust is required to 17359
report as farm income on its federal income tax return, but only 17360
if the assets of the trust include at least ten acres of land 17361
satisfying the definition of "land devoted exclusively to 17362
agricultural use" under section 5713.30 of the Revised Code, 17363
regardless of whether the land is valued for tax purposes as 17364

such land under sections 5713.30 to 5713.38 of the Revised Code. 17365
If the trust is a pass-through entity investor, section 5747.231 17366
of the Revised Code applies in ascertaining if the trust is 17367
eligible to claim the deduction provided by division (S) (12) of 17368
this section in connection with the pass-through entity's farm 17369
income. 17370

Except for farm income attributable to the S portion of an 17371
electing small business trust, the deduction provided by 17372
division (S) (12) of this section is allowed only to the extent 17373
that the trust has not distributed such farm income. ~~Division~~ 17374
~~(S) (12) of this section applies only to taxable years of a trust~~ 17375
~~beginning in 2002 or thereafter.~~ 17376

(13) Add the net amount of income described in section 17377
641(c) of the Internal Revenue Code to the extent that amount is 17378
not included in federal taxable income. 17379

(14) Add or deduct the amount the taxpayer would be 17380
required to add or deduct under division (A) ~~(20)~~ (17) or ~~(21)~~ 17381
(18) of this section if the taxpayer's Ohio taxable income were 17382
computed in the same manner as an individual's Ohio adjusted 17383
gross income is computed under this section. ~~In the case of a~~ 17384
~~trust, division (S) (14) of this section applies only to any of~~ 17385
~~the trust's taxable years beginning in 2002 or thereafter.~~ 17386

(T) "School district income" and "school district income 17387
tax" have the same meanings as in section 5748.01 of the Revised 17388
Code. 17389

(U) As used in divisions (A) ~~(8)~~ (7), (A) ~~(9)~~ (8), (S) (6), and 17390
(S) (7) of this section, "public obligations," "purchase 17391
obligations," and "interest or interest equivalent" have the 17392
same meanings as in section 5709.76 of the Revised Code. 17393

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

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

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

(Y) "Month" means a calendar month.

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

~~(AA) (1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post secondary institution located in this state that possesses a certificate of authorization issued by the chancellor of higher education pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.~~

~~(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post secondary~~

~~education during a maximum of five taxable years, not exceeding 17423
a total of five thousand dollars. "Qualified tuition and fees" 17424
does not include: 17425~~

~~(a) Expenses for any course or activity involving sports, 17426
games, or hobbies unless the course or activity is part of the 17427
individual's degree or diploma program; 17428~~

~~(b) The cost of books, room and board, student activity 17429
fees, athletic fees, insurance expenses, or other expenses 17430
unrelated to the individual's academic course of instruction; 17431~~

~~(c) Tuition, fees, or other expenses paid or reimbursed 17432
through an employer, scholarship, grant in aid, or other 17433
educational benefit program. 17434~~

~~(BB) (1) "Modified business income" means the business 17435
income included in a trust's Ohio taxable income after such 17436
taxable income is first reduced by the qualifying trust amount, 17437
if any. 17438~~

(2) "Qualifying trust amount" of a trust means capital 17439
gains and losses from the sale, exchange, or other disposition 17440
of equity or ownership interests in, or debt obligations of, a 17441
qualifying investee to the extent included in the trust's Ohio 17442
taxable income, but only if the following requirements are 17443
satisfied: 17444

(a) The book value of the qualifying investee's physical 17445
assets in this state and everywhere, as of the last day of the 17446
qualifying investee's fiscal or calendar year ending immediately 17447
prior to the date on which the trust recognizes the gain or 17448
loss, is available to the trust. 17449

(b) The requirements of section 5747.011 of the Revised 17450
Code are satisfied for the trust's taxable year in which the 17451

trust recognizes the gain or loss. 17452

Any gain or loss that is not a qualifying trust amount is 17453
modified business income, qualifying investment income, or 17454
modified nonbusiness income, as the case may be. 17455

(3) "Modified nonbusiness income" means a trust's Ohio 17456
taxable income other than modified business income, other than 17457
the qualifying trust amount, and other than qualifying 17458
investment income, as defined in section 5747.012 of the Revised 17459
Code, to the extent such qualifying investment income is not 17460
otherwise part of modified business income. 17461

(4) "Modified Ohio taxable income" applies only to trusts, 17462
and means the sum of the amounts described in divisions ~~(BB)~~ (AA) 17463
(4) (a) to (c) of this section: 17464

(a) The fraction, calculated under section 5747.013, and 17465
applying section 5747.231 of the Revised Code, multiplied by the 17466
sum of the following amounts: 17467

(i) The trust's modified business income; 17468

(ii) The trust's qualifying investment income, as defined 17469
in section 5747.012 of the Revised Code, but only to the extent 17470
the qualifying investment income does not otherwise constitute 17471
modified business income and does not otherwise constitute a 17472
qualifying trust amount. 17473

(b) The qualifying trust amount multiplied by a fraction, 17474
the numerator of which is the sum of the book value of the 17475
qualifying investee's physical assets in this state on the last 17476
day of the qualifying investee's fiscal or calendar year ending 17477
immediately prior to the day on which the trust recognizes the 17478
qualifying trust amount, and the denominator of which is the sum 17479
of the book value of the qualifying investee's total physical 17480

assets everywhere on the last day of the qualifying investee's 17481
fiscal or calendar year ending immediately prior to the day on 17482
which the trust recognizes the qualifying trust amount. If, for 17483
a taxable year, the trust recognizes a qualifying trust amount 17484
with respect to more than one qualifying investee, the amount 17485
described in division ~~(BB)~~(AA) (4) (b) of this section shall equal 17486
the sum of the products so computed for each such qualifying 17487
investee. 17488

(c) (i) With respect to a trust or portion of a trust that 17489
is a resident as ascertained in accordance with division (I) (3) 17490
(d) of this section, its modified nonbusiness income. 17491

(ii) With respect to a trust or portion of a trust that is 17492
not a resident as ascertained in accordance with division (I) (3) 17493
(d) of this section, the amount of its modified nonbusiness 17494
income satisfying the descriptions in divisions (B) (2) to (5) of 17495
section 5747.20 of the Revised Code, except as otherwise 17496
provided in division ~~(BB)~~(AA) (4) (c) (ii) of this section. With 17497
respect to a trust or portion of a trust that is not a resident 17498
as ascertained in accordance with division (I) (3) (d) of this 17499
section, the trust's portion of modified nonbusiness income 17500
recognized from the sale, exchange, or other disposition of a 17501
debt interest in or equity interest in a section 5747.212 17502
entity, as defined in section 5747.212 of the Revised Code, 17503
without regard to division (A) of that section, shall not be 17504
allocated to this state in accordance with section 5747.20 of 17505
the Revised Code but shall be apportioned to this state in 17506
accordance with division (B) of section 5747.212 of the Revised 17507
Code without regard to division (A) of that section. 17508

If the allocation and apportionment of a trust's income 17509
under divisions ~~(BB)~~(AA) (4) (a) and (c) of this section do not 17510

fairly represent the modified Ohio taxable income of the trust 17511
in this state, the alternative methods described in division (C) 17512
of section 5747.21 of the Revised Code may be applied in the 17513
manner and to the same extent provided in that section. 17514

(5) (a) Except as set forth in division ~~(BB)~~(AA) (5) (b) of 17515
this section, "qualifying investee" means a person in which a 17516
trust has an equity or ownership interest, or a person or unit 17517
of government the debt obligations of either of which are owned 17518
by a trust. For the purposes of division ~~(BB)~~(AA) (2) (a) of this 17519
section and for the purpose of computing the fraction described 17520
in division ~~(BB)~~(AA) (4) (b) of this section, all of the following 17521
apply: 17522

(i) If the qualifying investee is a member of a qualifying 17523
controlled group on the last day of the qualifying investee's 17524
fiscal or calendar year ending immediately prior to the date on 17525
which the trust recognizes the gain or loss, then "qualifying 17526
investee" includes all persons in the qualifying controlled 17527
group on such last day. 17528

(ii) If the qualifying investee, or if the qualifying 17529
investee and any members of the qualifying controlled group of 17530
which the qualifying investee is a member on the last day of the 17531
qualifying investee's fiscal or calendar year ending immediately 17532
prior to the date on which the trust recognizes the gain or 17533
loss, separately or cumulatively own, directly or indirectly, on 17534
the last day of the qualifying investee's fiscal or calendar 17535
year ending immediately prior to the date on which the trust 17536
recognizes the qualifying trust amount, more than fifty per cent 17537
of the equity of a pass-through entity, then the qualifying 17538
investee and the other members are deemed to own the 17539
proportionate share of the pass-through entity's physical assets 17540

which the pass-through entity directly or indirectly owns on the 17541
last day of the pass-through entity's calendar or fiscal year 17542
ending within or with the last day of the qualifying investee's 17543
fiscal or calendar year ending immediately prior to the date on 17544
which the trust recognizes the qualifying trust amount. 17545

(iii) For the purposes of division ~~(BB)~~ (AA) (5) (a) (iii) of 17546
this section, "upper level pass-through entity" means a pass- 17547
through entity directly or indirectly owning any equity of 17548
another pass-through entity, and "lower level pass-through 17549
entity" means that other pass-through entity. 17550

An upper level pass-through entity, whether or not it is 17551
also a qualifying investee, is deemed to own, on the last day of 17552
the upper level pass-through entity's calendar or fiscal year, 17553
the proportionate share of the lower level pass-through entity's 17554
physical assets that the lower level pass-through entity 17555
directly or indirectly owns on the last day of the lower level 17556
pass-through entity's calendar or fiscal year ending within or 17557
with the last day of the upper level pass-through entity's 17558
fiscal or calendar year. If the upper level pass-through entity 17559
directly and indirectly owns less than fifty per cent of the 17560
equity of the lower level pass-through entity on each day of the 17561
upper level pass-through entity's calendar or fiscal year in 17562
which or with which ends the calendar or fiscal year of the 17563
lower level pass-through entity and if, based upon clear and 17564
convincing evidence, complete information about the location and 17565
cost of the physical assets of the lower pass-through entity is 17566
not available to the upper level pass-through entity, then 17567
solely for purposes of ascertaining if a gain or loss 17568
constitutes a qualifying trust amount, the upper level pass- 17569
through entity shall be deemed as owning no equity of the lower 17570
level pass-through entity for each day during the upper level 17571

pass-through entity's calendar or fiscal year in which or with 17572
which ends the lower level pass-through entity's calendar or 17573
fiscal year. Nothing in division ~~(BB)~~(AA) (5) (a) (iii) of this 17574
section shall be construed to provide for any deduction or 17575
exclusion in computing any trust's Ohio taxable income. 17576

(b) With respect to a trust that is not a resident for the 17577
taxable year and with respect to a part of a trust that is not a 17578
resident for the taxable year, "qualifying investee" for that 17579
taxable year does not include a C corporation if both of the 17580
following apply: 17581

(i) During the taxable year the trust or part of the trust 17582
recognizes a gain or loss from the sale, exchange, or other 17583
disposition of equity or ownership interests in, or debt 17584
obligations of, the C corporation. 17585

(ii) Such gain or loss constitutes nonbusiness income. 17586

(6) "Available" means information is such that a person is 17587
able to learn of the information by the due date plus 17588
extensions, if any, for filing the return for the taxable year 17589
in which the trust recognizes the gain or loss. 17590

~~(CC)~~(BB) "Qualifying controlled group" has the same 17591
meaning as in section 5733.04 of the Revised Code. 17592

~~(DD)~~(CC) "Related member" has the same meaning as in 17593
section 5733.042 of the Revised Code. 17594

~~(EE)~~(DD) (1) For the purposes of division ~~(EE)~~(DD) of this 17595
section: 17596

(a) "Qualifying person" means any person other than a 17597
qualifying corporation. 17598

(b) "Qualifying corporation" means any person classified 17599

for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

~~(FF)~~(EE) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

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

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

election, if timely made, shall be effective on and after 17629
January 1, 2006, and shall apply for all tax periods and tax 17630
years until revoked by the trustee of the trust. 17631

(4) A "pre-income tax trust" is a trust that satisfies all 17632
of the following requirements: 17633

(a) The document or instrument creating the trust was 17634
executed by the grantor before January 1, 1972; 17635

(b) The trust became irrevocable upon the creation of the 17636
trust; and 17637

(c) The grantor was domiciled in this state at the time 17638
the trust was created. 17639

~~(GG)~~(FF) "Uniformed services" has the same meaning as in 17640
10 U.S.C. 101. 17641

~~(HH)~~(GG) "Taxable business income" means the amount by 17642
which an individual's business income that is included in 17643
federal adjusted gross income exceeds the amount of business 17644
income the individual is authorized to deduct under division (A) 17645
~~(31)~~(28) of this section for the taxable year. 17646

~~(II)~~(HH) "Employer" does not include a franchisor with 17647
respect to the franchisor's relationship with a franchisee or an 17648
employee of a franchisee, unless the franchisor agrees to assume 17649
that role in writing or a court of competent jurisdiction 17650
determines that the franchisor exercises a type or degree of 17651
control over the franchisee or the franchisee's employees that 17652
is not customarily exercised by a franchisor for the purpose of 17653
protecting the franchisor's trademark, brand, or both. For 17654
purposes of this division, "franchisor" and "franchisee" have 17655
the same meanings as in 16 C.F.R. 436.1. 17656

Sec. 5747.011. (A) As used in this section: 17657

(1) "Qualifying closely-held C corporation" means a person 17658
classified for federal income tax purposes as an association 17659
taxed as a corporation and that has more than fifty per cent of 17660
the value of its outstanding stock or equity owned, directly or 17661
indirectly, by or for not more than five qualifying persons. For 17662
the purposes of this division, the ownership of stock shall be 17663
determined under the rules set forth in section 544 of the 17664
Internal Revenue Code. 17665

(2) "Qualifying person" means an individual; an 17666
organization described in section 401(a), 501(c)(17), or 509(a) 17667
of the Internal Revenue Code; or a portion of a trust 17668
permanently set aside or to be used exclusively for the purposes 17669
described in section 642(c) of the Internal Revenue Code or a 17670
corresponding provision of a prior federal income tax law. 17671

(3) "Qualifying limited liability company" means a limited 17672
liability company that is not classified for federal income tax 17673
purposes as an association taxed as a corporation. 17674

(4) "Ownership interest" means the equity or ownership 17675
interest in, or debt obligation of, a "qualifying investee" as 17676
defined in section 5747.01 of the Revised Code. 17677

(5) "Qualifying individual beneficiary" has the same 17678
meaning as qualifying beneficiary as used in division (I)(3)(c) 17679
of section 5747.01 of the Revised Code, but is limited to 17680
individuals. 17681

(6) "Family" of an individual means only the individual's 17682
spouse; the individual's ancestors, limited to the individual's 17683
parents, grandparents, and great grandparents; the siblings of 17684
such ancestors, whether by the whole or half blood or by legal 17685

adoption; the lineal descendants of such ancestors and siblings; 17686
persons legally adopted by such ancestors or by such siblings; 17687
and the spouses of such ancestors, siblings, legally adopted 17688
persons, and lineal descendants. 17689

(B) The requirements of this division apply for purposes 17690
of division ~~(BB)~~(AA) (2) (b) of section 5747.01 of the Revised 17691
Code and for the purposes of division (D) of section 5747.012 of 17692
the Revised Code. Gain or loss included in a trust's Ohio 17693
taxable income is not a qualifying trust amount unless the 17694
trust's ownership interest in the qualifying investee is at 17695
least five per cent of the total outstanding ownership interests 17696
in such qualifying investee at any time during the ten-year 17697
period ending on the last day of the trust's taxable year in 17698
which the sale, exchange, or other disposition occurs. Nothing 17699
in this section negates the requirements in division ~~(BB)~~(AA) (2) 17700
of section 5747.01 of the Revised Code. 17701

For the purpose of ascertaining whether the trust's 17702
ownership interest in a qualifying investee is at least five per 17703
cent of the total outstanding ownership interests in such 17704
qualifying investee, the following apply: 17705

(1) On each day, an ownership interest owned, directly or 17706
indirectly, by or for a qualifying closely-held C corporation, 17707
an S corporation, a partnership other than a publicly traded 17708
partnership, a qualifying limited liability company, an estate, 17709
or a trust that is irrevocable as defined in division (I) (3) (b) 17710
of section 5747.01 of the Revised Code is considered as being 17711
owned proportionately on the same day by the equity investors of 17712
such qualifying closely-held C corporation, S corporation, 17713
partnership, or qualifying limited liability company, or by the 17714
beneficiaries of such estate or trust, as the case may be. For 17715

the purposes of division (B)(1) of this section, a beneficiary's 17716
proportionate share of an ownership interest held by a trust 17717
shall be ascertained in accordance with section 544(a)(1) of the 17718
Internal Revenue Code. 17719

(2) On each day, a trust, hereinafter referred to as the 17720
first trust, is considered as owning any ownership interest 17721
owned, directly or indirectly, by or for another trust, 17722
hereinafter referred to as the second trust, if on the same day 17723
the second trust has at least one individual trustee who is 17724
either (a) a trustee of the first trust, or (b) a member of a 17725
family that includes at least one of the trustees of the first 17726
trust. 17727

(3) On each day, a trust, hereinafter referred to as the 17728
first trust, is considered as owning any ownership interest 17729
owned, directly or indirectly, by or for another trust, 17730
hereinafter referred to as the second trust, if on the same day 17731
the second trust has at least one qualifying individual 17732
beneficiary who is either (a) a qualifying individual 17733
beneficiary of the first trust or (b) a member of a family which 17734
includes a qualifying individual beneficiary of the first trust. 17735

(4) An ownership interest constructively owned by a person 17736
by reason of the application of division (B)(1) of this section 17737
shall, for the purpose of applying divisions (B)(1) to (3) of 17738
this section, be treated as actually owned by that person. 17739

(5) An ownership interest constructively owned by a trust 17740
by reason of the application of division (B)(2) or (3) of this 17741
section shall not be treated as actually owned by that trust for 17742
purposes of applying divisions (B)(1) to (3) of this section. 17743

(6) If an ownership interest may be considered as owned by 17744

a trust under division (B) (1) or (2) of this section, the 17745
ownership interest shall be considered owned by that trust under 17746
division (B) (2) of this section. 17747

(7) If an ownership interest may be considered as owned by 17748
a trust under division (B) (1) or (3) of this section, the 17749
ownership interest shall be considered owned by that trust under 17750
division (B) (3) of this section. 17751

Sec. 5747.012. This section applies for the purposes of 17752
divisions ~~(BB)~~(AA) (3) and ~~(BB)~~ (4) (a) (ii) of section 5747.01 of 17753
the Revised Code. 17754

(A) As used in this section: 17755

(1) (a) Except as set forth in division (A) (1) (b) of this 17756
section, "qualifying investment income" means the portion of a 17757
qualifying investment pass-through entity's net income 17758
attributable to transaction fees in connection with the 17759
acquisition, ownership, or disposition of intangible property; 17760
loan fees; financing fees; consent fees; waiver fees; 17761
application fees; net management fees; dividend income; interest 17762
income; net capital gains from the sale or exchange or other 17763
disposition of intangible property; and all types and 17764
classifications of income attributable to distributive shares of 17765
income from other pass-through entities. 17766

(b) (i) Notwithstanding division (A) (1) (a) of this section, 17767
"qualifying investment income" does not include any part of the 17768
qualifying investment pass-through entity's net capital gain 17769
which, after the application of section 5747.231 of the Revised 17770
Code with respect to a trust, would also constitute a qualifying 17771
trust amount. 17772

(ii) Notwithstanding division (A) (1) (a) of this section, 17773

"qualifying investment income" does not include any part of the 17774
qualifying investment pass-through entity's net income 17775
attributable to the portion of a distributive share of income 17776
directly or indirectly from another pass-through entity to the 17777
extent such portion constitutes the other pass-through entity's 17778
net capital gain which, after the application of section 17779
5747.231 of the Revised Code with respect to a trust, would also 17780
constitute a qualifying trust amount. 17781

(2) "Qualifying investment pass-through entity" means an 17782
investment pass-through entity, as defined in section 5733.401 17783
of the Revised Code, subject to the following qualifications: 17784

(a) "Forty per cent" shall be substituted for "ninety per 17785
cent" wherever "ninety per cent" appears in section 5733.401 of 17786
the Revised Code. 17787

(b) The pass-through entity must have been formed or 17788
organized as an entity prior to June 5, 2002, and must exist as 17789
a pass-through entity for all of the taxable year of the trust. 17790

(c) The qualifying section 5747.012 trust or related 17791
persons to the qualifying section 5747.012 trust must directly 17792
or indirectly own at least five per cent of the equity of the 17793
investment pass-through entity each day of the entity's fiscal 17794
or calendar year ending within or with the last day of the 17795
qualifying section 5747.012 trust's taxable year; 17796

(d) During the investment pass-through entity's calendar 17797
or fiscal year ending within or with the last day of the 17798
qualifying section 5747.012 trust's taxable year, the qualifying 17799
section 5747.012 trust or related persons of or to the 17800
qualifying section 5747.012 trust must, on each day of the 17801
investment pass-through entity's year, own directly, or own 17802

through equity investments in other pass-through entities, more 17803
than sixty per cent of the equity of the investment pass-through 17804
entity. 17805

(B) "Qualifying section 5747.012 trust" means a trust 17806
satisfying one of the following: 17807

(1) The trust was created prior to, and was irrevocable 17808
on, June 5, 2002; or 17809

(2) If the trust was created after June 4, 2002, or if the 17810
trust became irrevocable after June 4, 2002, then at least 17811
eighty per cent of the assets transferred to the trust must have 17812
been previously owned by related persons to the trust or by a 17813
trust created prior to June 5, 2002, under which the creator did 17814
not retain the power to change beneficiaries, amend the trust, 17815
or revoke the trust. For purposes of division (B)(2) of this 17816
section, the power to substitute property of equal value shall 17817
not be considered to be a power to change beneficiaries, amend 17818
the trust, or revoke the trust. 17819

(C) For the purposes of this section, "related persons" 17820
means the family of a qualifying individual beneficiary, as 17821
defined in division (A)(5) of section 5747.011 of the Revised 17822
Code. For the purposes of this division, "family" has the same 17823
meaning as in division (A)(6) of section 5747.011 of the Revised 17824
Code. 17825

(D) For the purposes of applying divisions (A)(2)(c), (A) 17826
(2)(d), and (B)(2) of this section, the related persons or the 17827
qualifying section 5747.012 trust, as the case may be, shall be 17828
deemed to own the equity of the investment pass-through entity 17829
after the application of division (B) of section 5747.011 of the 17830
Revised Code. 17831

(E) "Irrevocable" has the same meaning as in division (I) 17832
(3) (b) of section 5747.01 of the Revised Code. 17833

(F) Nothing in this section requires any item of income, 17834
gain, or loss not satisfying the definition of qualifying 17835
investment income to be treated as modified nonbusiness income. 17836
Any item of income, gain, or loss that is not qualifying 17837
investment income is modified business income, modified 17838
nonbusiness income, or a qualifying trust amount, as the case 17839
may be. 17840

Sec. 5747.013. (A) As used in this section: 17841

(1) "Electric company," "combined company," and "telephone 17842
company" have the same meanings as in section 5727.01 of the 17843
Revised Code. 17844

(2) "Qualified research" means laboratory research, 17845
experimental research, and other similar types of research; 17846
research in developing or improving a product; or research in 17847
developing or improving the means of producing a product. It 17848
does not include market research, consumer surveys, efficiency 17849
surveys, management studies, ordinary testing or inspection of 17850
material or products for quality control, historical research, 17851
or literary research. "Product," as used in this paragraph, does 17852
not include services or intangible property. 17853

(B) The fraction to be used in calculating a trust's 17854
modified Ohio taxable income under division ~~(BB)~~ (AA) (4) (a) of 17855
section 5747.01 of the Revised Code shall be determined as 17856
follows: The numerator of the fraction is the sum of the 17857
following products: the property factor multiplied by twenty, 17858
the payroll factor multiplied by twenty, and the sales factor 17859
multiplied by sixty. The denominator of the fraction is one 17860

hundred, provided that the denominator shall be reduced by 17861
twenty if the property factor has a denominator of zero, by 17862
twenty if the payroll factor has a denominator of zero, and by 17863
sixty if the sales factor has a denominator of zero. 17864

The property, payroll, and sales factors shall be 17865
determined as follows: 17866

(1) The property factor is a fraction the numerator of 17867
which is the average value of the trust's real and tangible 17868
personal property owned or rented and used in the trade or 17869
business in this state during the taxable year, and the 17870
denominator of which is the average value of all the trust's 17871
real and tangible personal property owned or rented and used in 17872
the trade or business everywhere during such year. Real and 17873
tangible personal property that is owned but leased to a lessee 17874
to be used in the lessee's trade or business shall not be 17875
included in the property factor of the owner. There shall be 17876
excluded from the numerator and denominator of the fraction the 17877
original cost of all of the following property within Ohio: 17878
property with respect to which a "pollution control facility" 17879
certificate has been issued pursuant to section 5709.21 of the 17880
Revised Code; property with respect to which an "industrial 17881
water pollution control certificate" has been issued pursuant to 17882
that section or former section 6111.31 of the Revised Code; and 17883
property used exclusively during the taxable year for qualified 17884
research. 17885

(a) Property owned by the trust is valued at its original 17886
cost. Property rented by the trust is valued at eight times the 17887
net annual rental rate. "Net annual rental rate" means the 17888
annual rental rate paid by the trust less any annual rental rate 17889
received by the trust from subrentals. 17890

(b) The average value of property shall be determined by 17891
averaging the values at the beginning and the end of the taxable 17892
year, but the tax commissioner may require the averaging of 17893
monthly values during the taxable year, if reasonably required 17894
to reflect properly the average value of the trust's property. 17895

(2) The payroll factor is a fraction the numerator of 17896
which is the total amount paid in this state during the taxable 17897
year by the trust for compensation, and the denominator of which 17898
is the total compensation paid everywhere by the trust during 17899
such year. There shall be excluded from the numerator and the 17900
denominator of the payroll factor the total compensation paid in 17901
this state to employees who are primarily engaged in qualified 17902
research. 17903

(a) Compensation is paid in this state if: (i) the 17904
recipient's service is performed entirely within this state; 17905
(ii) the recipient's service is performed both within and 17906
without this state, but the service performed without this state 17907
is incidental to the recipient's service within this state; or 17908
(iii) some of the service is performed within this state and 17909
either the base of operations, or if there is no base of 17910
operations, the place from which the service is directed or 17911
controlled, is within this state, or the base of operations or 17912
the place from which the service is directed or controlled is 17913
not in any state in which some part of the service is performed, 17914
but the recipient's residence is in this state. 17915

(b) Compensation is paid in this state to any employee of 17916
a common or contract motor carrier corporation, who performs the 17917
employee's regularly assigned duties on a motor vehicle in more 17918
than one state, in the same ratio by which the mileage traveled 17919
by such employee within the state bears to the total mileage 17920

traveled by such employee everywhere during the taxable year. 17921

(3) The sales factor is a fraction the numerator of which 17922
is the total sales in this state by the trust during the taxable 17923
year, and the denominator of which is the total sales by the 17924
trust everywhere during such year. In determining the numerator 17925
and denominator of the fraction, receipts from the sale or other 17926
disposal of a capital asset or an asset described in section 17927
1231 of the Internal Revenue Code shall be eliminated. Also, in 17928
determining the numerator and denominator of the sales factor, 17929
in the case of a trust owning at least eighty per cent of the 17930
issued and outstanding common stock of one or more insurance 17931
companies or public utilities, except an electric company and a 17932
combined company, and, for tax years 2005 and thereafter, a 17933
telephone company, or owning at least twenty-five per cent of 17934
the issued and outstanding common stock of one or more financial 17935
institutions, receipts received by the trust from such insurance 17936
companies, utilities, and financial institutions shall be 17937
eliminated. 17938

For the purpose of this section and section 5747.08 of the 17939
Revised Code, sales of tangible personal property are in this 17940
state where such property is received in this state by the 17941
purchaser. In the case of delivery of tangible personal property 17942
by common carrier or by other means of transportation, the place 17943
at which such property is ultimately received after all 17944
transportation has been completed shall be considered as the 17945
place at which such property is received by the purchaser. 17946
Direct delivery in this state, other than for purposes of 17947
transportation, to a person or firm designated by a purchaser 17948
constitutes delivery to the purchaser in this state, and direct 17949
delivery outside this state to a person or firm designated by a 17950
purchaser does not constitute delivery to the purchaser in this 17951

state, regardless of where title passes or other conditions of sale. 17952
17953

Sales, other than sales of tangible personal property, are in this state if either: 17954
17955

(a) The income-producing activity is performed solely in this state; or 17956
17957

(b) The income-producing activity is performed both within and without this state and a greater proportion of the seller's income-producing activity is performed within this state than in any other state, based on costs of performance. 17958
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Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual, trust, and estate residing in or earning or receiving income in this state, on every individual, trust, and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, on every individual, trust, and estate earning or receiving winnings on casino gaming, and on every individual, trust, and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured as prescribed in divisions (A) (1) to (4) of this section. 17962
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(1) In the case of trusts, the tax imposed by this section shall be measured by modified Ohio taxable income under division (D) of this section and levied in the same amount as the tax is imposed on estates as prescribed in division (A) (2) of this section. 17976
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(2) In the case of estates, the tax imposed by this section shall be measured by Ohio taxable income and levied at the rate of seven thousand four hundred twenty-five ten-thousandths per cent for the first ten thousand five hundred dollars of such income and, for income in excess of that amount, at the same rates prescribed in division (A)(3) of this section for individuals.

(3) In the case of individuals, for taxable years beginning in 2017 or thereafter, the tax imposed by this section on income other than taxable business income shall be measured by Ohio adjusted gross income, less taxable business income and less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code. If the balance thus obtained is equal to or less than ten thousand five hundred dollars, no tax shall be imposed on that balance. If the balance thus obtained is greater than ten thousand five hundred dollars, the tax is hereby levied as follows:

OHIO ADJUSTED GROSS		17999
INCOME LESS TAXABLE		18000
BUSINESS INCOME AND EXEMPTIONS		18001
(INDIVIDUALS)		18002
OR		18003
MODIFIED OHIO		18004
TAXABLE INCOME (TRUSTS)		18005
OR		18006
OHIO TAXABLE INCOME (ESTATES)	TAX	18007
More than \$10,500 but	\$77.96 plus 1.980% of the amount	18008
not more than \$15,800	in excess of \$10,500	18009
More than \$15,800 but	\$182.90 plus 2.476% of the amount	18010

not more than \$21,100	in excess of \$15,800	18011
More than \$21,100 but	\$314.13 plus 2.969% of the amount	18012
not more than \$42,100	in excess of \$21,100	18013
More than \$42,100 but	\$937.62 plus 3.465% of the amount	18014
not more than \$84,200	in excess of \$42,100	18015
More than \$84,200 but	\$2,396.39 plus 3.960% of the amount	18016
not more than \$105,300	in excess of \$84,200	18017
More than \$105,300 but	\$3,231.95 plus 4.597% of the amount	18018
not more than \$210,600	in excess of \$105,300	18019
More than \$210,600	\$8,072.59 plus 4.997% of the amount	18020
	in excess of \$210,600	18021
(4) (a) In the case of individuals, for taxable years		18022
beginning in 2016 or thereafter, the tax imposed by this section		18023
on taxable business income shall equal three per cent of the		18024
result obtained by subtracting any amount allowed under division		18025
(A) (4) (b) of this section from the individual's taxable business		18026
income.		18027
(b) If the exemptions allowed to an individual under		18028
division (A) (3) of this section exceed the taxpayer's Ohio		18029
adjusted gross income less taxable business income, the excess		18030
shall be deducted from taxable business income before computing		18031
the tax under division (A) (4) (a) of this section.		18032
(5) Except as otherwise provided in this division, in		18033
August of each year, the tax commissioner shall make a new		18034
adjustment to the income amounts prescribed in divisions (A) (2)		18035
and (3) of this section by multiplying the percentage increase		18036
in the gross domestic product deflator computed that year under		18037
section 5747.025 of the Revised Code by each of the income		18038

amounts resulting from the adjustment under this division in the 18039
preceding year, adding the resulting product to the 18040
corresponding income amount resulting from the adjustment in the 18041
preceding year, and rounding the resulting sum to the nearest 18042
multiple of fifty dollars. The tax commissioner also shall 18043
recompute each of the tax dollar amounts to the extent necessary 18044
to reflect the new adjustment of the income amounts. To 18045
recompute the tax dollar amount corresponding to the lowest tax 18046
rate in division (A) (3) of this section, the commissioner shall 18047
multiply the tax rate prescribed in division (A) (2) of this 18048
section by the income amount specified in that division and as 18049
adjusted according to this paragraph. The rates of taxation 18050
shall not be adjusted. 18051

The adjusted amounts apply to taxable years beginning in 18052
the calendar year in which the adjustments are made and to 18053
taxable years beginning in each ensuing calendar year until a 18054
calendar year in which a new adjustment is made pursuant to this 18055
division. The tax commissioner shall not make a new adjustment 18056
in any year in which the amount resulting from the adjustment 18057
would be less than the amount resulting from the adjustment in 18058
the preceding year. 18059

(B) If the director of budget and management makes a 18060
certification to the tax commissioner under division (B) of 18061
section 131.44 of the Revised Code, the amount of tax as 18062
determined under divisions (A) (1) to (3) of this section shall 18063
be reduced by the percentage prescribed in that certification 18064
for taxable years beginning in the calendar year in which that 18065
certification is made. 18066

~~(C) The levy of this tax on income does not prevent a 18067
municipal corporation, a joint economic development zone created 18068~~

~~under section 715.691, or a joint economic development district
created under section 715.70, 715.71, or 715.72 of the Revised
Code from levying a tax on income.~~ 18069
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18071

~~(D) This division applies only to taxable years of a trust
beginning in 2002 or thereafter.~~ 18072
18073

(1) The tax imposed by this section on a trust shall be 18074
computed by multiplying the Ohio modified taxable income of the 18075
trust by the rates prescribed by division (A) of this section. 18076

(2) A resident trust may claim a credit against the tax 18077
computed under division ~~(D)~~ (C) of this section equal to the 18078
lesser of (a) the tax paid to another state or the District of 18079
Columbia on the resident trust's modified nonbusiness income, 18080
other than the portion of the resident trust's nonbusiness 18081
income that is qualifying investment income as defined in 18082
section 5747.012 of the Revised Code, or (b) the effective tax 18083
rate, based on modified Ohio taxable income, multiplied by the 18084
resident trust's modified nonbusiness income other than the 18085
portion of the resident trust's nonbusiness income that is 18086
qualifying investment income. The credit applies before any 18087
other applicable credits. 18088

(3) The credits ~~enumerated in divisions (A) (1) to (9) and
(A) (18) to (20) of section 5747.98~~ authorized by the following
sections of the Revised Code do not apply to a trust subject to 18089
division ~~(D)~~ (C) of this section: section 5747.022, 5747.05, 18090
5747.054, 5747.055, 5747.27, 5747.29, 5747.37, 5747.66, or 18091
5747.71 of the Revised Code. Any ~~credits enumerated in other~~ 18092
~~divisions of credit~~ authorized against the tax imposed by this 18093
section 5747.98 of the Revised Code ~~apply~~ applies to a trust 18094
subject to division ~~(D)~~ (C) of this section that otherwise 18095
qualifies for such a credit. To the extent that the trust 18096
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distributes income for the taxable year for which a credit is 18099
available to the trust, the credit shall be shared by the trust 18100
and its beneficiaries. The tax commissioner and the trust shall 18101
be guided by applicable regulations of the United States 18102
treasury regarding the sharing of credits. 18103

~~(E)~~ (D) For the purposes of this section, "trust" means 18104
any trust described in Subchapter J of Chapter 1 of the Internal 18105
Revenue Code, excluding trusts that are not irrevocable as 18106
defined in division (I) (3) (b) of section 5747.01 of the Revised 18107
Code and that have no modified Ohio taxable income for the 18108
taxable year, charitable remainder trusts, qualified funeral 18109
trusts and preneed funeral contract trusts established pursuant 18110
to sections 4717.31 to 4717.38 of the Revised Code that are not 18111
qualified funeral trusts, endowment and perpetual care trusts, 18112
qualified settlement trusts and funds, designated settlement 18113
trusts and funds, and trusts exempted from taxation under 18114
section 501(a) of the Internal Revenue Code. 18115

~~(F)~~ (E) Nothing in division (A) (3) of this section shall 18116
prohibit an individual with an Ohio adjusted gross income, less 18117
taxable business income and exemptions, of ten thousand five 18118
hundred dollars or less from filing a return under this chapter 18119
to receive a refund of taxes withheld or to claim any refundable 18120
credit allowed under this chapter. 18121

Sec. 5747.058. (A) A refundable income tax credit granted 18122
by the tax credit authority under section 122.17 or former 18123
division (B) (2) or (3) of section 122.171 of the Revised Code, 18124
as those divisions existed before the effective date of the 18125
amendment of this section by H.B. 64 of the 131st general 18126
assembly, September 29, 2015, may be claimed under this chapter, 18127
in the order required under section 5747.98 of the Revised Code. 18128

For purposes of making tax payments under this chapter, taxes 18129
equal to the amount of the refundable credit shall be considered 18130
to be paid to this state on the first day of the taxable year. 18131
The refundable credit shall not be claimed for any taxable years 18132
ending with or following the calendar year in which a relocation 18133
of employment positions occurs in violation of an agreement 18134
entered into under section 122.17 or 122.171 of the Revised 18135
Code. 18136

(B) A nonrefundable income tax credit granted by the tax 18137
credit authority under division (B) of section 122.171 of the 18138
Revised Code may be claimed under this chapter, in the order 18139
required under section 5747.98 of the Revised Code. 18140

Sec. 5747.061. (A) As used in this section: 18141

(1) "State agency" means the general assembly, all courts, 18142
any department, division, institution, board, commission, 18143
authority, bureau, or other instrumentality of the state. 18144

(2) "Political subdivision" means a county, municipal 18145
corporation, township, school district, or other body corporate 18146
and politic responsible for governmental activities in a 18147
geographic area smaller than that of the state. 18148

(3) "Legislative authority" means the board of county 18149
commissioners, the legislative authority of a municipal 18150
corporation, the board of township trustees, the board of 18151
education, or the board, council, commission, or other governing 18152
body of any other political subdivision. 18153

(4) "Fiscal officer" means the county auditor, the 18154
treasurer of the municipal corporation, the clerk-treasurer of a 18155
village, or the officer who, by virtue of the charter, has the 18156
duties of the treasurer or clerk-treasurer, the township fiscal 18157

officer, the treasurer of the board of education, or, in the 18158
case of any state agency or other subdivision, the officer or 18159
person responsible for deducting and withholding from the 18160
compensation paid to an employee who is a taxpayer the amount of 18161
tax required to be withheld by section 5747.06 of the Revised 18162
Code. 18163

(B) (1) The director or other chief administrator of any 18164
state agency, in accordance with rules adopted by the department 18165
of administrative services, may direct its fiscal officer to 18166
deduct and withhold from the compensation paid to an employee 18167
who is a resident of a state with which the commissioner has 18168
entered into an agreement under division (A) ~~(3)~~ (2) of section 18169
5747.05 of the Revised Code, a tax computed in such a manner as 18170
to result, as far as practicable, in withholding from the 18171
compensation of the employee during each calendar year an amount 18172
substantially equivalent to the tax reasonably estimated to be 18173
due under the income tax laws of the state of residence of the 18174
employee with respect to the amount of such compensation 18175
included in gross income during the calendar year under those 18176
laws. 18177

(2) The legislative authority of a political subdivision 18178
may adopt a rule, ordinance, or resolution requiring the fiscal 18179
officer of the political subdivision to deduct and withhold from 18180
the compensation paid to an employee who is a resident of a 18181
state with which the tax commissioner has entered into an 18182
agreement under division (A) ~~(3)~~ (2) of section 5747.05 of the 18183
Revised Code, a tax computed in such a manner as to result, as 18184
far as practicable, in withholding from the compensation of the 18185
employee during each calendar year an amount substantially 18186
equivalent to the tax reasonably estimated to be due under the 18187
income tax laws of the state of residence of the employee with 18188

respect to the amount of such compensation included in gross 18189
income during the calendar year under those laws. 18190

(3) Upon direction of the director or other chief 18191
administrator of a state agency, or adoption of a rule, 18192
ordinance, or resolution by a political subdivision under this 18193
division, the fiscal officer shall obtain from the official 18194
responsible for administering the income tax laws of the state 18195
of residence of the employee, information necessary to enable 18196
the fiscal officer to withhold the proper amount of tax from the 18197
compensation of the employee for the calendar year. 18198

(C) A fiscal officer who deducts and withholds tax from 18199
the compensation of a nonresident employee shall file a 18200
withholding return or other report and pay the full amount of 18201
the tax deducted and withheld as required by the income tax laws 18202
of the state of residence of the employee. 18203

(D) A fiscal officer who deducts and withholds tax from 18204
the compensation of a nonresident employee shall furnish to that 18205
employee and to the official who is responsible for 18206
administering the income tax laws of the state of residence of 18207
the employee, a written statement showing the amount of 18208
compensation paid to the employee and the amount deducted and 18209
withheld from the compensation of the employee during the 18210
calendar year. The statement shall be furnished on or before the 18211
last day of January of the succeeding year, except that, with 18212
respect to an employee whose employment is terminated, the 18213
statement for the calendar year in which the last payment of 18214
compensation is made shall be furnished within thirty days from 18215
the date the last payment of compensation is made. 18216

Sec. 5747.07. (A) As used in this section: 18217

(1) "Partial weekly withholding period" means a period 18218
during which an employer directly, indirectly, or constructively 18219
pays compensation to, or credits compensation to the benefit of, 18220
an employee, and that consists of a consecutive Saturday, 18221
Sunday, Monday, and Tuesday or a consecutive Wednesday, 18222
Thursday, and Friday. There are two partial weekly withholding 18223
periods each week, except that a partial weekly withholding 18224
period cannot extend from one calendar year into the next 18225
calendar year; if the first day of January falls on a day other 18226
than Saturday or Wednesday, the partial weekly withholding 18227
period ends on the thirty-first day of December and there are 18228
three partial weekly withholding periods during that week. 18229

(2) "Undeposited taxes" means the taxes an employer is 18230
required to deduct and withhold from an employee's compensation 18231
pursuant to section 5747.06 of the Revised Code that have not 18232
been remitted to the tax commissioner pursuant to this section 18233
or to the treasurer of state pursuant to section 5747.072 of the 18234
Revised Code. 18235

(3) A "week" begins on Saturday and concludes at the end 18236
of the following Friday. 18237

(4) "Client employer," "professional employer 18238
organization," "professional employer organization agreement," 18239
and "professional employer organization reporting entity" have 18240
the same meanings as in section 4125.01 of the Revised Code. 18241

(B) Except as provided in divisions (C) and (D) of this 18242
section and in division (A) of section 5747.072 of the Revised 18243
Code, every employer required to deduct and withhold any amount 18244
under section 5747.06 of the Revised Code shall file a return 18245
and shall pay the amount required by law as follows: 18246

(1) An employer who accumulates or is required to 18247
accumulate undeposited taxes of one hundred thousand dollars or 18248
more during a partial weekly withholding period shall make the 18249
payment of the undeposited taxes by the close of the first 18250
banking day after the day on which the accumulation reaches one 18251
hundred thousand dollars. If required under division (I) of this 18252
section, the payment shall be made by electronic funds transfer 18253
under section 5747.072 of the Revised Code. 18254

(2) ~~(a)~~ Except as required by division (B) (1) of this 18255
section, an employer ~~described in division (B) (2) (b) of this~~ 18256
~~section whose actual or required payments under this section~~ 18257
~~were at least eighty-four thousand dollars during the twelve-~~ 18258
~~month period ending on the thirtieth day of June of the~~ 18259
~~preceding calendar year~~ shall make the payment of undeposited 18260
taxes within three banking days after the close of a partial 18261
weekly withholding period during which the employer was required 18262
to deduct and withhold any amount under this chapter. If 18263
required under division (I) of this section, the payment shall 18264
be made by electronic funds transfer under section 5747.072 of 18265
the Revised Code. 18266

~~(b) For amounts required to be deducted and withheld~~ 18267
~~during 1994, an employer described in division (B) (2) (b) of this~~ 18268
~~section is one whose actual or required payments under this~~ 18269
~~section exceeded one hundred eighty thousand dollars during the~~ 18270
~~twelve-month period ending June 30, 1993. For amounts required~~ 18271
~~to be deducted and withheld during 1995 and each year~~ 18272
~~thereafter, an employer described in division (B) (2) (b) of this~~ 18273
~~section is one whose actual or required payments under this~~ 18274
~~section were at least eighty four thousand dollars during the~~ 18275
~~twelve-month period ending on the thirtieth day of June of the~~ 18276
~~preceding calendar year.~~ 18277

(3) Except as required by divisions (B) (1) and (2) of this section, if an employer's actual or required payments were more than two thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year, the employer shall make the payment of undeposited taxes for each month during which they were required to be withheld no later than fifteen days following the last day of that month. The employer shall file the return prescribed by the tax commissioner with the payment.

(4) Except as required by divisions (B) (1), (2), and (3) of this section, an employer shall make the payment of undeposited taxes for each calendar quarter during which they were required to be withheld no later than the last day of the month following the last day of March, June, September, and December each year. The employer shall file the return prescribed by the tax commissioner with the payment.

(C) The return and payment schedules prescribed by divisions (B) (1) and (2) of this section do not apply to the return and payment of undeposited school district income taxes arising from taxes levied pursuant to Chapter 5748. of the Revised Code. Undeposited school district income taxes shall be returned and paid pursuant to divisions (B) (3) and (4) of this section, as applicable.

(D) (1) The requirements of division (B) of this section are met if the amount paid is not less than ninety-five per cent of the actual tax withheld or required to be withheld for the prior quarterly, monthly, or partial weekly withholding period, and the underpayment is not due to willful neglect. Any underpayment of withheld tax shall be paid within thirty days of the date on which the withheld tax was due without regard to

division (D) (1) of this section. An employer described in 18308
division (B) (1) or (2) of this section shall make the payment by 18309
electronic funds transfer under section 5747.072 of the Revised 18310
Code. 18311

(2) If the tax commissioner believes that quarterly or 18312
monthly payments would result in a delay that might jeopardize 18313
the remittance of withholding payments, the commissioner may 18314
order that the payments be made weekly, or more frequently if 18315
necessary, and the payments shall be made no later than three 18316
banking days following the close of the period for which the 18317
jeopardy order is made. An order requiring weekly or more 18318
frequent payments shall be delivered to the employer personally 18319
or by certified mail and remains in effect until the 18320
commissioner notifies the employer to the contrary. 18321

(3) If compelling circumstances exist concerning the 18322
remittance of undeposited taxes, the commissioner may order the 18323
employer to make payments under any of the payment schedules 18324
under division (B) of this section. The order shall be delivered 18325
to the employer personally or by certified mail and shall remain 18326
in effect until the commissioner notifies the employer to the 18327
contrary. For purposes of division (D) (3) of this section, 18328
"compelling circumstances" exist if either or both of the 18329
following are true: 18330

(a) Based upon annualization of payments made or required 18331
to be made during the preceding calendar year and during the 18332
current calendar year, the employer would be required for the 18333
next calendar year to make payments under division (B) (2) of 18334
this section. 18335

(b) Based upon annualization of payments made or required 18336
to be made during the current calendar year, the employer would 18337

be required for the next calendar year to make payments under 18338
division (B) (2) of this section. 18339

(E) (1) An employer described in division (B) (1) or (2) of 18340
this section shall file, not later than the last day of the 18341
month following the end of each calendar quarter, a return 18342
covering, but not limited to, both the actual amount deducted 18343
and withheld and the amount required to be deducted and withheld 18344
for the tax imposed under section 5747.02 of the Revised Code 18345
during each partial weekly withholding period or portion of a 18346
partial weekly withholding period during that quarter. The 18347
employer shall file the quarterly return even if the aggregate 18348
amount required to be deducted and withheld for the quarter is 18349
zero dollars. At the time of filing the return, the employer 18350
shall pay any amounts of undeposited taxes for the quarter, 18351
whether actually deducted and withheld or required to be 18352
deducted and withheld, that have not been previously paid. If 18353
required under division (I) of this section, the payment shall 18354
be made by electronic funds transfer. The tax commissioner shall 18355
prescribe the form and other requirements of the quarterly 18356
return. 18357

(2) In addition to other returns required to be filed and 18358
payments required to be made under this section, every employer 18359
required to deduct and withhold taxes shall file, not later than 18360
the thirty-first day of January of each year, an annual return 18361
covering, but not limited to, both the aggregate amount deducted 18362
and withheld and the aggregate amount required to be deducted 18363
and withheld during the entire preceding year for the tax 18364
imposed under section 5747.02 of the Revised Code and for each 18365
tax imposed under Chapter 5748. of the Revised Code. At the time 18366
of filing that return, the employer shall pay over any amounts 18367
of undeposited taxes for the preceding year, whether actually 18368

deducted and withheld or required to be deducted and withheld, 18369
that have not been previously paid. The employer shall make the 18370
annual report, to each employee and to the tax commissioner, of 18371
the compensation paid and each tax withheld, as the commissioner 18372
by rule may prescribe. 18373

Each employer required to deduct and withhold any tax is 18374
liable for the payment of that amount required to be deducted 18375
and withheld, whether or not the tax has in fact been withheld, 18376
unless the failure to withhold was based upon the employer's 18377
good faith in reliance upon the statement of the employee as to 18378
liability, and the amount shall be deemed to be a special fund 18379
in trust for the general revenue fund. 18380

(F) Each employer shall file with the employer's annual 18381
return the following items of information on employees for whom 18382
withholding is required under section 5747.06 of the Revised 18383
Code: 18384

(1) The full name of each employee, the employee's 18385
address, the employee's school district of residence, and in the 18386
case of a nonresident employee, the employee's principal county 18387
of employment; 18388

(2) The social security number of each employee; 18389

(3) The total amount of compensation paid before any 18390
deductions to each employee for the period for which the annual 18391
return is made; 18392

(4) The amount of the tax imposed by section 5747.02 of 18393
the Revised Code and the amount of each tax imposed under 18394
Chapter 5748. of the Revised Code withheld from the compensation 18395
of the employee for the period for which the annual return is 18396
made. The commissioner may extend upon good cause the period for 18397

filing any notice or return required to be filed under this 18398
section and may adopt rules relating to extensions of time. If 18399
the extension results in an extension of time for the payment of 18400
the amounts withheld with respect to which the return is filed, 18401
the employer shall pay, at the time the amount withheld is paid, 18402
an amount of interest computed at the rate per annum prescribed 18403
by section 5703.47 of the Revised Code on that amount withheld, 18404
from the day that amount was originally required to be paid to 18405
the day of actual payment or to the day an assessment is issued 18406
under section 5747.13 of the Revised Code, whichever occurs 18407
first. 18408

(5) In addition to all other interest charges and 18409
penalties imposed, all amounts of taxes withheld or required to 18410
be withheld and remaining unpaid after the day the amounts are 18411
required to be paid shall bear interest from the date prescribed 18412
for payment at the rate per annum prescribed by section 5703.47 18413
of the Revised Code on the amount unpaid, in addition to the 18414
amount withheld, until paid or until the day an assessment is 18415
issued under section 5747.13 of the Revised Code, whichever 18416
occurs first. 18417

(G) An employee of a corporation, limited liability 18418
company, or business trust having control or supervision of or 18419
charged with the responsibility of filing the report and making 18420
payment, or an officer, member, manager, or trustee of a 18421
corporation, limited liability company, or business trust who is 18422
responsible for the execution of the corporation's, limited 18423
liability company's, or business trust's fiscal 18424
responsibilities, shall be personally liable for failure to file 18425
the report or pay the tax due as required by this section. The 18426
dissolution, termination, or bankruptcy of a corporation, 18427
limited liability company, or business trust does not discharge 18428

a responsible officer's, member's, manager's, employee's, or 18429
trustee's liability for a failure of the corporation, limited 18430
liability company, or business trust to file returns or pay tax 18431
due. 18432

(H) If an employer required to deduct and withhold income 18433
tax from compensation and to pay that tax to the state under 18434
sections 5747.06 and 5747.07 of the Revised Code sells the 18435
employer's business or stock of merchandise or quits the 18436
employer's business, the taxes required to be deducted and 18437
withheld and paid to the state pursuant to those sections prior 18438
to that time, together with any interest and penalties imposed 18439
on those taxes, become due and payable immediately, and that 18440
person shall make a final return within fifteen days after the 18441
date of selling or quitting business. The employer's successor 18442
shall withhold a sufficient amount of the purchase money to 18443
cover the amount of the taxes, interest, and penalties due and 18444
unpaid, until the former owner produces a receipt from the tax 18445
commissioner showing that the taxes, interest, and penalties 18446
have been paid or a certificate indicating that no such taxes 18447
are due. If the purchaser of the business or stock of 18448
merchandise fails to withhold purchase money, the purchaser 18449
shall be personally liable for the payment of the taxes, 18450
interest, and penalties accrued and unpaid during the operation 18451
of the business by the former owner. If the amount of taxes, 18452
interest, and penalties outstanding at the time of the purchase 18453
exceeds the total purchase money, the tax commissioner in the 18454
commissioner's discretion may adjust the liability of the seller 18455
or the responsibility of the purchaser to pay that liability to 18456
maximize the collection of withholding tax revenue. 18457

~~(I)(1) An employer described in division (I)(2) of this~~ 18458
~~section whose actual or required payments under this section~~ 18459

exceeded eighty-four thousand dollars during the twelve-month 18460
period ending on the thirtieth day of June of the preceding 18461
calendar year shall make all payments required by this section 18462
for the year by electronic funds transfer under section 5747.072 18463
of the Revised Code. 18464

~~(2) (a) For 1994, an employer described in division (I) (2)~~ 18465
~~of this section is one whose actual or required payments under~~ 18466
~~this section exceeded five hundred thousand dollars during the~~ 18467
~~twelve month period ending June 30, 1993.~~ 18468

~~(b) For 1995, an employer described in division (I) (2) of~~ 18469
~~this section is one whose actual or required payments under this~~ 18470
~~section exceeded five hundred thousand dollars during the~~ 18471
~~twelve month period ending June 30, 1994.~~ 18472

~~(c) For 1996, an employer described in division (I) (2) of~~ 18473
~~this section is one whose actual or required payments under this~~ 18474
~~section exceeded three hundred thousand dollars during the~~ 18475
~~twelve month period ending June 30, 1995.~~ 18476

~~(d) For 1997 through 2000, an employer described in~~ 18477
~~division (I) (2) of this section is one whose actual or required~~ 18478
~~payments under this section exceeded one hundred eighty thousand~~ 18479
~~dollars during the twelve month period ending on the thirtieth~~ 18480
~~day of June of the preceding calendar year.~~ 18481

~~(e) For 2001 and thereafter, an employer described in~~ 18482
~~division (I) (2) of this section is one whose actual or required~~ 18483
~~payments under this section exceeded eighty four thousand~~ 18484
~~dollars during the twelve month period ending on the thirtieth~~ 18485
~~day of June of the preceding calendar year.~~ 18486

(J) (1) Every professional employer organization and every 18487
professional employer organization reporting entity shall file a 18488

report with the tax commissioner within thirty days after 18489
commencing business in this state or within thirty days after 18490
~~the effective date of this amendment~~ March 22, 2013, whichever 18491
is later, that includes all of the following information: 18492

(a) The name, address, number the employer receives from 18493
the secretary of state to do business in this state, if 18494
applicable, and federal employer identification number of each 18495
client employer of the professional employer organization or 18496
professional employer organization reporting entity; 18497

(b) The date that each client employer became a client of 18498
the professional employer organization or professional employer 18499
organization reporting entity; 18500

(c) The names and mailing addresses of the chief executive 18501
officer and the chief financial officer of each client employer 18502
for taxation of the client employer. 18503

(2) Beginning with the calendar quarter ending after a 18504
professional employer organization or professional employer 18505
organization reporting entity files the report required under 18506
division (J) (1) of this section, and every calendar quarter 18507
thereafter, the professional employer organization or the 18508
professional employer organization reporting entity shall file 18509
an updated report with the tax commissioner. The professional 18510
employer organization or professional employer organization 18511
reporting entity shall file the updated report not later than 18512
the last day of the month following the end of the calendar 18513
quarter and shall include all of the following information in 18514
the report: 18515

(a) If an entity became a client employer of the 18516
professional employer organization or professional employer 18517

organization reporting entity at any time during the calendar 18518
quarter, all of the information required under division (J) (1) 18519
of this section for each new client employer; 18520

(b) If an entity terminated the professional employer 18521
organization agreement between the professional employer 18522
organization or professional employer organization reporting 18523
entity and the entity at any time during the calendar quarter, 18524
the information described in division (J) (1) (a) of this section 18525
for that entity, the date during the calendar quarter that the 18526
entity ceased being a client of the professional employer 18527
organization or professional employer organization reporting 18528
entity, if applicable, or the date the entity ceased business 18529
operations in this state, if applicable; 18530

(c) If the name or mailing address of the chief executive 18531
officer or the chief financial officer of a client employer has 18532
changed since the professional employer organization or 18533
professional employer organization reporting entity previously 18534
submitted a report under division (J) (1) or (2) of this section, 18535
the updated name or mailing address, or both, of the chief 18536
executive officer or the chief financial officer, as applicable; 18537

(d) If none of the events described in divisions (J) (2) (a) 18538
to (c) of this section occurred during the calendar quarter, a 18539
statement of that fact. 18540

Sec. 5747.082. (A) As used in this section: 18541

(1) "Electronic technology" means electronic technology 18542
acceptable to the tax commissioner under division (B) of this 18543
section. 18544

(2) "Original tax return" means any report, return, or 18545
other tax document required to be filed under this chapter for 18546

the purpose of reporting the taxes due under, and withholdings 18547
required by, this chapter. "Original tax return" does not 18548
include an amended return or any declaration or form required by 18549
or filed in connection with section 5747.09 of the Revised Code. 18550

(3) "Related member" has the same meaning as in section 18551
5733.042 of the Revised Code. 18552

(4) "Tax return preparer" means any person that operates a 18553
business that prepares, or directly or indirectly employs 18554
another person to prepare, for a taxpayer an original tax return 18555
in exchange for compensation or remuneration from the taxpayer 18556
or the taxpayer's related member. With respect to the 18557
preparation of a return or application for refund under this 18558
chapter, "tax return preparer" does not include an individual 18559
who performs only one or more of the following activities: 18560

(a) Furnishes typing, reproducing, or other mechanical 18561
assistance; 18562

(b) Prepares an application for refund or a return on 18563
behalf of an employer by whom the individual is regularly and 18564
continuously employed, or on behalf of an officer or employee of 18565
that employer; 18566

(c) Prepares as a fiduciary an application for refund or a 18567
return; 18568

(d) Prepares an application for refund or a return for a 18569
taxpayer in response to a notice of deficiency issued to the 18570
taxpayer or the taxpayer's related member, or in response to a 18571
waiver of restriction after the commencement of an audit of the 18572
taxpayer or the taxpayer's related member. 18573

(B) Divisions (C) and (D) of this section apply to the 18574
filing of original tax returns that are due in a calendar year 18575

only if the tax commissioner, by the last day of the calendar 18576
year immediately preceding the calendar year in which such 18577
returns are due, has published on the department of taxation's 18578
official internet web site at least one method of electronic 18579
technology acceptable to the commissioner for filing such 18580
returns. 18581

(C) A tax return preparer that prepares more than ~~seventy-~~ 18582
~~five original tax returns during any calendar year that ends-~~ 18583
~~before January 1, 2013, or that prepares more than eleven~~ 18584
original tax returns during any calendar year ~~that begins on or~~ 18585
~~after January 1, 2013,~~ shall use electronic technology to file 18586
with the tax commissioner all original tax returns prepared by 18587
the tax return preparer. ~~This division does not apply to a tax-~~ 18588
~~return preparer in any calendar year that ends before January 1,~~ 18589
~~2013, if, during the previous calendar year, the tax return-~~ 18590
~~preparer prepared no more than twenty five original tax returns.~~ 18591
This division does not apply to a tax return preparer in any 18592
calendar year ~~that begins on or after January 1, 2013, if,~~ 18593
during the previous calendar year, the tax return preparer 18594
prepared not more than ten original tax returns. 18595

(D) If a tax return preparer required by this section to 18596
submit original tax returns by electronic technology files an 18597
original tax return by some means other than by electronic 18598
technology, the tax commissioner shall impose a penalty of fifty 18599
dollars for each return, ~~in excess of seventy five in calendar-~~ 18600
~~year 2010, 2011, or 2012, or in excess of eleven in any calendar~~ 18601
year ~~thereafter,~~ that is not filed by electronic technology. 18602
Upon good cause shown by the tax return preparer, the tax 18603
commissioner may waive all or any portion of the penalty or may 18604
refund all or any portion of the penalty the tax return preparer 18605
has paid. 18606

Sec. 5747.11. (A) The tax commissioner shall refund to 18607
employers, qualifying entities, or taxpayers subject to a tax 18608
imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 18609
5748. of the Revised Code the amount of any overpayment of such 18610
tax. 18611

(B) Except as otherwise provided under divisions (D) and 18612
(E) of this section, applications for refund shall be filed with 18613
the tax commissioner, on the form prescribed by the 18614
commissioner, within four years from the date of the illegal, 18615
erroneous, or excessive payment of the tax, or within any 18616
additional period allowed by division (B) (3) (b) of section 18617
5747.05, division (B) of section 5747.10, division (A) of 18618
section 5747.13, or division (C) of section 5747.45 of the 18619
Revised Code. 18620

On filing of the refund application, the commissioner 18621
shall determine the amount of refund due and, if that amount 18622
exceeds one dollar, certify such amount to the director of 18623
budget and management and treasurer of state for payment from 18624
the tax refund fund created by section 5703.052 of the Revised 18625
Code. Payment shall be made as provided in division (C) of 18626
section 126.35 of the Revised Code. 18627

(C) (1) Interest shall be allowed and paid at the rate per 18628
annum prescribed by section 5703.47 of the Revised Code on 18629
amounts refunded with respect to the tax imposed under section 18630
5747.02 or Chapter 5748. of the Revised Code from the date of 18631
the overpayment until the date of the refund of the overpayment, 18632
except that if any overpayment is refunded within ninety days 18633
after the final filing date of the annual return or ninety days 18634
after the return is filed, whichever is later, no interest shall 18635
be allowed on such overpayment. If the overpayment results from 18636

the carryback of a net operating loss or net capital loss to a 18637
previous taxable year, the overpayment is deemed not to have 18638
been made prior to the filing date, including any extension 18639
thereof, for the taxable year in which the net operating loss or 18640
net capital loss arises. For purposes of the payment of interest 18641
on overpayments, no amount of tax, for any taxable year, shall 18642
be treated as having been paid before the date on which the tax 18643
return for that year was due without regard to any extension of 18644
time for filing such return. 18645

(2) Interest shall be allowed at the rate per annum 18646
prescribed by section 5703.47 of the Revised Code on amounts 18647
refunded with respect to the taxes imposed under sections 18648
5733.41 and 5747.41 of the Revised Code. The interest shall run 18649
from whichever of the following days is the latest until the day 18650
the refund is paid: the day the illegal, erroneous, or excessive 18651
payment was made; the ninetieth day after the final day the 18652
annual report was required to be filed under section 5747.42 of 18653
the Revised Code; or the ninetieth day after the day that report 18654
was filed. 18655

(D) "Ninety days" shall be substituted for "four years" in 18656
division (B) of this section if the taxpayer satisfies both of 18657
the following conditions: 18658

(1) The taxpayer has applied for a refund based in whole 18659
or in part upon section 5747.059 of the Revised Code; 18660

(2) The taxpayer asserts that either the imposition or 18661
collection of the tax imposed or charged by this chapter or any 18662
portion of such tax violates the Constitution of the United 18663
States or the Constitution of Ohio. 18664

(E) (1) Division (E) (2) of this section applies only if all 18665

of the following conditions are satisfied: 18666

(a) A qualifying entity pays an amount of the tax imposed 18667
by section 5733.41 or 5747.41 of the Revised Code; 18668

(b) The taxpayer is a qualifying investor as to that 18669
qualifying entity; 18670

(c) The taxpayer did not claim the credit provided for in 18671
section 5747.059 of the Revised Code as to the tax described in 18672
division (E) (1) (a) of this section; 18673

(d) The four-year period described in division (B) of this 18674
section has ended as to the taxable year for which the taxpayer 18675
otherwise would have claimed that credit. 18676

(2) A taxpayer shall file an application for refund 18677
pursuant to division (E) of this section within one year after 18678
the date the payment described in division (E) (1) (a) of this 18679
section is made. An application filed under division (E) (2) of 18680
this section shall claim refund only of overpayments resulting 18681
from the taxpayer's failure to claim the credit described in 18682
division (E) (1) (c) of this section. Nothing in division (E) of 18683
this section shall be construed to relieve a taxpayer from 18684
complying with division (A) ~~(16)~~ (15) of section 5747.01 of the 18685
Revised Code. 18686

Sec. 5747.231. As used in this section, "adjusted 18687
qualifying amount" has the same meaning as in section 5733.40 of 18688
the Revised Code. 18689

This section does not apply to division ~~(BB)~~ (AA) (5) (a) (ii) 18690
of section 5747.01 of the Revised Code. 18691

Except as set forth in this section and except as 18692
otherwise provided in divisions (A) and (B) of section 5733.401 18693

of the Revised Code, in making all apportionment, allocation, 18694
income, gain, loss, deduction, tax, and credit computations 18695
under this chapter, each person shall include in that person's 18696
items of business income, nonbusiness income, adjusted 18697
qualifying amounts, allocable income or loss, apportionable 18698
income or loss, property, compensation, and sales, the person's 18699
entire distributive share or proportionate share of the items of 18700
business income, nonbusiness income, adjusted qualifying 18701
amounts, allocable income or loss, apportionable income or loss, 18702
property, compensation, and sales of any pass-through entity in 18703
which the person has a direct or indirect ownership interest at 18704
any time during the person's taxable year. A pass-through 18705
entity's direct or indirect distributive share or proportionate 18706
share of any other pass-through entity's items of business 18707
income, nonbusiness income, adjusted qualifying amounts, 18708
allocable income or loss, apportionable income or loss, 18709
property, compensation, and sales shall be included for the 18710
purposes of computing the person's distributive share or 18711
proportionate share of the pass-through entity's items of 18712
business income, nonbusiness income, adjusted qualifying 18713
amounts, allocable income or loss, apportionable income or loss, 18714
property, compensation, and sales under this section. Those 18715
items shall be in the same form as was recognized by the pass- 18716
through entity. 18717

Sec. 5747.41. For the same purposes for which the tax is 18718
levied under section 5747.02 of the Revised Code, there is 18719
hereby levied a withholding tax on every qualifying pass-through 18720
entity having at least one qualifying investor who is an 18721
individual and on every qualifying trust having at least one 18722
qualifying beneficiary who is an individual. The withholding tax 18723
imposed by this section is imposed on the sum of the adjusted 18724

qualifying amounts of a qualifying pass-through entity's 18725
qualifying investors who are individuals and on the sum of the 18726
adjusted qualifying amounts of a qualifying trust's qualifying 18727
beneficiaries, at the rate of five per cent of that sum. 18728

The tax imposed by this section applies only if the 18729
qualifying entity has nexus with this state under the 18730
Constitution of the United States for any portion of the 18731
qualifying entity's qualifying taxable year, and the sum of the 18732
qualifying entity's adjusted qualifying amounts exceeds one 18733
thousand dollars for the qualifying entity's qualifying taxable 18734
year. 18735

~~The levy of the tax under this section does not prevent a 18736
municipal corporation or a joint economic development district 18737
created under section 715.70, 715.71, or 715.72 of the Revised 18738
Code from levying a tax on income. 18739~~

Sec. 5747.51. (A) On or before the twenty-fifth day of 18740
July of each year, the tax commissioner shall make and certify 18741
to the county auditor of each county an estimate of the amount 18742
of the local government fund to be allocated to the undivided 18743
local government fund of each county for the ensuing calendar 18744
year, adjusting the total as required to account for 18745
subdivisions receiving local government funds under section 18746
5747.502 of the Revised Code. 18747

(B) At each annual regular session of the county budget 18748
commission convened pursuant to section 5705.27 of the Revised 18749
Code, each auditor shall present to the commission the 18750
certificate of the commissioner, the annual tax budget and 18751
estimates, and the records showing the action of the commission 18752
in its last preceding regular session. The commission, after 18753
extending to the representatives of each subdivision an 18754

opportunity to be heard, under oath administered by any member 18755
of the commission, and considering all the facts and information 18756
presented to it by the auditor, shall determine the amount of 18757
the undivided local government fund needed by and to be 18758
apportioned to each subdivision for current operating expenses, 18759
as shown in the tax budget of the subdivision. This 18760
determination shall be made pursuant to divisions (C) to (I) of 18761
this section, unless the commission has provided for a formula 18762
pursuant to section 5747.53 of the Revised Code. The 18763
commissioner shall reduce the amount of funds from the undivided 18764
local government fund to a subdivision required to receive 18765
reduced funds under section 5747.502 of the Revised Code. 18766

Nothing in this section prevents the budget commission, 18767
for the purpose of apportioning the undivided local government 18768
fund, from inquiring into the claimed needs of any subdivision 18769
as stated in its tax budget, or from adjusting claimed needs to 18770
reflect actual needs. For the purposes of this section, "current 18771
operating expenses" means the lawful expenditures of a 18772
subdivision, except those for permanent improvements and except 18773
payments for interest, sinking fund, and retirement of bonds, 18774
notes, and certificates of indebtedness of the subdivision. 18775

(C) The commission shall determine the combined total of 18776
the estimated expenditures, including transfers, from the 18777
general fund and any special funds other than special funds 18778
established for road and bridge; street construction, 18779
maintenance, and repair; state highway improvement; and gas, 18780
water, sewer, and electric public utilities operated by a 18781
subdivision, as shown in the subdivision's tax budget for the 18782
ensuing calendar year. 18783

(D) From the combined total of expenditures calculated 18784

pursuant to division (C) of this section, the commission shall 18785
deduct the following expenditures, if included in these funds in 18786
the tax budget: 18787

(1) Expenditures for permanent improvements as defined in 18788
division (E) of section 5705.01 of the Revised Code; 18789

(2) In the case of counties and townships, transfers to 18790
the road and bridge fund, and in the case of municipalities, 18791
transfers to the street construction, maintenance, and repair 18792
fund and the state highway improvement fund; 18793

(3) Expenditures for the payment of debt charges; 18794

(4) Expenditures for the payment of judgments. 18795

(E) In addition to the deductions made pursuant to 18796
division (D) of this section, revenues accruing to the general 18797
fund and any special fund considered under division (C) of this 18798
section from the following sources shall be deducted from the 18799
combined total of expenditures calculated pursuant to division 18800
(C) of this section: 18801

(1) Taxes levied within the ten-mill limitation, as 18802
defined in section 5705.02 of the Revised Code; 18803

(2) The budget commission allocation of estimated county 18804
public library fund revenues to be distributed pursuant to 18805
section 5747.48 of the Revised Code; 18806

(3) Estimated unencumbered balances as shown on the tax 18807
budget as of the thirty-first day of December of the current 18808
year in the general fund, but not any estimated balance in any 18809
special fund considered in division (C) of this section; 18810

(4) Revenue, including transfers, shown in the general 18811
fund and any special funds other than special funds established 18812

for road and bridge; street construction, maintenance, and 18813
repair; state highway improvement; and gas, water, sewer, and 18814
electric public utilities, from all other sources except those 18815
that a subdivision receives from an additional tax or service 18816
charge voted by its electorate or receives from special 18817
assessment or revenue bond collection. For the purposes of this 18818
division, where the charter of a municipal corporation prohibits 18819
the levy of an income tax, an income tax levied by the 18820
legislative authority of such municipal corporation pursuant to 18821
an amendment of the charter of that municipal corporation to 18822
authorize such a levy represents an additional tax voted by the 18823
electorate of that municipal corporation. For the purposes of 18824
this division, any measure adopted by a board of county 18825
commissioners pursuant to section 322.02, 4504.02, or 5739.021 18826
of the Revised Code, including those measures upheld by the 18827
electorate in a referendum conducted pursuant to section 18828
322.021, 4504.021, or 5739.022 of the Revised Code, shall not be 18829
considered an additional tax voted by the electorate. 18830

Subject to division ~~(C)~~ (F) of section 5705.29 of the 18831
Revised Code, money in a reserve balance account established by 18832
a county, township, or municipal corporation under section 18833
5705.13 of the Revised Code shall not be considered an 18834
unencumbered balance or revenue under division (E) (3) or (4) of 18835
this section. Money in a reserve balance account established by 18836
a township under section 5705.132 of the Revised Code shall not 18837
be considered an unencumbered balance or revenue under division 18838
(E) (3) or (4) of this section. 18839

If a county, township, or municipal corporation has 18840
created and maintains a nonexpendable trust fund under section 18841
5705.131 of the Revised Code, the principal of the fund, and any 18842
additions to the principal arising from sources other than the 18843

reinvestment of investment earnings arising from such a fund, 18844
shall not be considered an unencumbered balance or revenue under 18845
division (E) (3) or (4) of this section. Only investment earnings 18846
arising from investment of the principal or investment of such 18847
additions to principal may be considered an unencumbered balance 18848
or revenue under those divisions. 18849

(F) The total expenditures calculated pursuant to division 18850
(C) of this section, less the deductions authorized in divisions 18851
(D) and (E) of this section, shall be known as the "relative 18852
need" of the subdivision, for the purposes of this section. 18853

(G) The budget commission shall total the relative need of 18854
all participating subdivisions in the county, and shall compute 18855
a relative need factor by dividing the total estimate of the 18856
undivided local government fund by the total relative need of 18857
all participating subdivisions. 18858

(H) The relative need of each subdivision shall be 18859
multiplied by the relative need factor to determine the 18860
proportionate share of the subdivision in the undivided local 18861
government fund of the county; provided, that the maximum 18862
proportionate share of a county shall not exceed the following 18863
maximum percentages of the total estimate of the undivided local 18864
government fund governed by the relationship of the percentage 18865
of the population of the county that resides within municipal 18866
corporations within the county to the total population of the 18867
county as reported in the reports on population in Ohio by the 18868
department of development as of the twentieth day of July of the 18869
year in which the tax budget is filed with the budget 18870
commission: 18871

Percentage share of 18872
Percentage of municipal the county shall 18873

population within the county:	not exceed:	18874
Less than forty-one per cent	Sixty per cent	18875
Forty-one per cent or more but less than eighty-one per cent	Fifty per cent	18876 18877
Eighty-one per cent or more	Thirty per cent	18878

Where the proportionate share of the county exceeds the 18879
limitations established in this division, the budget commission 18880
shall adjust the proportionate shares determined pursuant to 18881
this division so that the proportionate share of the county does 18882
not exceed these limitations, and it shall increase the 18883
proportionate shares of all other subdivisions on a pro rata 18884
basis. In counties having a population of less than one hundred 18885
thousand, not less than ten per cent shall be distributed to the 18886
townships therein. 18887

(I) The proportionate share of each subdivision in the 18888
undivided local government fund determined pursuant to division 18889
(H) of this section for any calendar year shall not be less than 18890
the product of the average of the percentages of the undivided 18891
local government fund of the county as apportioned to that 18892
subdivision for the calendar years 1968, 1969, and 1970, 18893
multiplied by the total amount of the undivided local government 18894
fund of the county apportioned pursuant to former section 18895
~~5735.23~~5739.23 of the Revised Code for the calendar year 1970. 18896
For the purposes of this division, the total apportioned amount 18897
for the calendar year 1970 shall be the amount actually 18898
allocated to the county in 1970 from the state collected 18899
intangible tax as levied by section 5707.03 of the Revised Code 18900
and distributed pursuant to section 5725.24 of the Revised Code, 18901
plus the amount received by the county in the calendar year 1970 18902

pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970, the minimum amount guaranteed to each subdivision for that calendar year pursuant to this division shall be reduced on a basis proportionate to the amount by which the amount of the undivided local government fund for that calendar year is less than the amount of the undivided local government fund apportioned for the calendar year 1970.

(J) On the basis of such apportionment, the county auditor shall compute the percentage share of each such subdivision in the undivided local government fund and shall at the same time certify to the tax commissioner the percentage share of the county as a subdivision. No payment shall be made from the undivided local government fund, except in accordance with such percentage shares.

Within ten days after the budget commission has made its apportionment, whether conducted pursuant to section 5747.51 or 5747.53 of the Revised Code, the auditor shall publish a list of the subdivisions and the amount each is to receive from the undivided local government fund and the percentage share of each subdivision, in a newspaper or newspapers of countywide circulation, and send a copy of such allocation to the tax commissioner.

The county auditor shall also send a copy of such allocation by ordinary or electronic mail to the fiscal officer of each subdivision entitled to participate in the allocation of

the undivided local government fund of the county. This copy 18933
shall constitute the official notice of the commission action 18934
referred to in section 5705.37 of the Revised Code. 18935

All money received into the treasury of a subdivision from 18936
the undivided local government fund in a county treasury shall 18937
be paid into the general fund and used for the current operating 18938
expenses of the subdivision. 18939

If a municipal corporation maintains a municipal 18940
university, such municipal university, when the board of 18941
trustees so requests the legislative authority of the municipal 18942
corporation, shall participate in the money apportioned to such 18943
municipal corporation from the total local government fund, 18944
however created and constituted, in such amount as requested by 18945
the board of trustees, provided such sum does not exceed nine 18946
per cent of the total amount paid to the municipal corporation. 18947

If any public official fails to maintain the records 18948
required by sections 5747.50 to 5747.55 of the Revised Code or 18949
by the rules issued by the tax commissioner, the auditor of 18950
state, or the treasurer of state pursuant to such sections, or 18951
fails to comply with any law relating to the enforcement of such 18952
sections, the local government fund money allocated to the 18953
county may be withheld until such time as the public official 18954
has complied with such sections or such law or the rules issued 18955
pursuant thereto. 18956

Sec. 5747.52. The form used by the county budget 18957
commission to calculate subdivision shares of the undivided 18958
local government fund as apportioned pursuant to section 5747.51 18959
of the Revised Code shall be as follows: 18960

Calculation of (name of subdivision) share of 18961

undivided local government fund for		18962
(name of county) county		18963
Authorized expenditure for subdivision	Total	18964
1. Estimated expenditures from general fund	.....	18965
2. Estimated expenditures from special funds other	.....	18966
than those established for road and bridge, street		18967
construction, maintenance, and state highway		18968
improvement, and for gas, water, sewer, and electric		18969
public utilities		18970
3. Total	.....	18971
Deductions from authorized expenditures		18972
4. Expenditures for permanent improvements	.....	18973
5. Transfers to road and bridge fund (counties and	.....	18974
townships only)		18975
6. Transfers to street construction, maintenance,	.....	18976
and repair, and state highway improvements funds		18977
7. Expenditures for the payment of debt charges	.....	18978
8. Expenditures for the payment of judgments	.....	18979
9. Taxes levied inside the "ten-mill limitation"	.....	18980
10. Budget commission allocation of estimated	.....	18981
county public library fund revenues		18982
11. Estimated unencumbered - <u>unencumbered</u> balances as	.....	18983
of December 31 of current year in the general funds		18984
as stated in the tax budget		18985
12. Revenue, including transfers, shown in the	.....	18986
general fund or any special funds other than special		18987
funds established for road and bridge, street		18988
construction, maintenance, and repair, and state		18989
highway improvement, and for gas, water, sewer, and		18990
electric public utilities, from all other sources		18991
except those from additional taxes or service		18992

charges voted by electorate as defined in division	18993
(E) (4) of section 5747.51 of the Revised Code,	18994
and except revenue from special assessment and	18995
revenue bond collections	18996
13. Total	18997
Calculation of subdivision share	18998
14. Relative need of subdivision (line 3 less line 13)	18999
15. Relative need factor for county (total estimate	19000
of undivided local government fund divided by total	19001
relative need of all participating subdivisions)	19002
16. Proportionate share of subdivision (relative	19003
need of subdivision multiplied by relative need factor)	19004
17. After any adjustments necessary to comply	19005
with statutory maximum share allowable to county	19006
18. After any adjustments necessary to comply	19007
with statutory minimum share allowable to townships	19008
19. After any adjustments necessary to comply with	19009
minimum guarantee in division (I) of section 5747.51	19010
of the Revised Code	19011
20. Proportionate share of subdivision (line 16, 17,	19012
18, or 19, whichever is appropriate)	19013
Sec. 5747.55. The action of the county budget commission	19014
under sections <u>section</u> 5747.51 and 5747.62 of the Revised Code	19015
may be appealed to the board of tax appeals in the manner and	19016
with the effect provided in section 5705.37 of the Revised Code,	19017
in accordance with the following rules:	19018
(A) The notice of appeal shall be signed by the authorized	19019
fiscal officer and shall set forth in clear and concise	19020
language:	19021
(1) A statement of the action of the budget commission	19022

appealed from, and the date of the receipt by the subdivision of 19023
the official certificate or notice of such action; 19024

(2) The error or errors the taxing district believes the 19025
budget commission made; 19026

(3) The specific relief sought by the taxing district. 19027

(B) The notice of appeal shall have attached thereto: 19028

(1) A certified copy of the resolution of the taxing 19029
authority authorizing the fiscal officer to file the appeal; 19030

(2) An exact copy of the official certificate, or notice 19031
of the action of the budget commission appealed from; 19032

(3) An exact copy of the budget request filed with the 19033
budget commission by the complaining subdivision, with the date 19034
of filing noted thereon. 19035

(C) There shall also be attached to the notice of appeal a 19036
statement showing: 19037

(1) The name of the fund involved, the total amount in 19038
dollars allocated, and the exact amount in dollars allocated to 19039
each participating subdivision; 19040

(2) The amount in dollars which the complaining 19041
subdivision believes it should have received; 19042

(3) The name of each participating subdivision, as well as 19043
the name and address of the fiscal officer thereof, that the 19044
complaining subdivision believes received more than its proper 19045
share of the allocation, and the exact amount in dollars of such 19046
alleged over-allocation. 19047

(D) Only the participating subdivisions named pursuant to 19048
division (C) of this section are to be considered as appellees 19049

before the board of tax appeals and no change shall, in any 19050
amount, be made in the amount allocated to participating 19051
subdivisions not appellees. 19052

(E) The total of the undivided local government fund or 19053
undivided local government revenue assistance fund to be 19054
allocated by the board of tax appeals upon appeal is the total 19055
of that fund allocated by the budget commission to those 19056
subdivisions which are appellants and appellees before the board 19057
of tax appeals. 19058

Sec. 5747.98. (A) To provide a uniform procedure for 19059
calculating a taxpayer's aggregate tax liability under section 19060
5747.02 of the Revised Code, a taxpayer shall claim any credits 19061
to which the taxpayer is entitled in the following order: 19062

(1) Either the retirement income credit under division (B) 19063
of section 5747.055 of the Revised Code or the lump sum 19064
retirement income credits under divisions (C), (D), and (E) of 19065
that section; 19066

(2) Either the senior citizen credit under division (F) of 19067
section 5747.055 of the Revised Code or the lump sum 19068
distribution credit under division (G) of that section; 19069

(3) The dependent care credit under section 5747.054 of 19070
the Revised Code; 19071

(4) The credit for displaced workers who pay for job 19072
training under section 5747.27 of the Revised Code; 19073

(5) The campaign contribution credit under section 5747.29 19074
of the Revised Code; 19075

(6) The twenty-dollar personal exemption credit under 19076
section 5747.022 of the Revised Code; 19077

(7) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	19078 19079
(8) The earned income credit under section 5747.71 of the Revised Code;	19080 19081
(9) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	19082 19083
(10) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	19084 19085
(11) The enterprise zone credit under section 5709.66 of the Revised Code;	19086 19087
(12) The ethanol plant investment credit under section 5747.75 of the Revised Code;	19088 19089
(13) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	19090 19091
(14) <u>(13)</u> The small business investment credit under section 5747.81 of the Revised Code;	19092 19093
(15) <u>(14)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	19094 19095
(16) <u>(15)</u> The research and development credit under section 5747.331 of the Revised Code;	19096 19097
(17) <u>(16)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	19098 19099
(18) <u>(17)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	19100 19101
(19) <u>(18)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	19102 19103

(20) <u>(19)</u> The refundable motion picture production credit	19104
under section 5747.66 of the Revised Code;	19105
(21) <u>(20)</u> The refundable jobs creation credit or job	19106
retention credit under division (A) of section 5747.058 of the	19107
Revised Code;	19108
(22) <u>(21)</u> The refundable credit for taxes paid by a	19109
qualifying entity granted under section 5747.059 of the Revised	19110
Code;	19111
(23) <u>(22)</u> The refundable credits for taxes paid by a	19112
qualifying pass-through entity granted under division (I) of	19113
section 5747.08 of the Revised Code;	19114
(24) <u>(23)</u> The refundable credit under section 5747.80 of	19115
the Revised Code for losses on loans made to the Ohio venture	19116
capital program under sections 150.01 to 150.10 of the Revised	19117
Code;	19118
(25) <u>(24)</u> The refundable credit for rehabilitating a	19119
historic building under section 5747.76 of the Revised Code;	19120
(26) <u>(25)</u> The refundable credit for financial institution	19121
taxes paid by a pass-through entity granted under section	19122
5747.65 of the Revised Code.	19123
(B) For any credit, except the refundable credits	19124
enumerated in this section and the credit granted under division	19125
(H) of section 5747.08 of the Revised Code, the amount of the	19126
credit for a taxable year shall not exceed the taxpayer's	19127
aggregate amount of tax due under section 5747.02 of the Revised	19128
Code, after allowing for any other credit that precedes it in	19129
the order required under this section. Any excess amount of a	19130
particular credit may be carried forward if authorized under the	19131
section creating that credit. Nothing in this chapter shall be	19132

construed to allow a taxpayer to claim, directly or indirectly,	19133
a credit more than once for a taxable year.	19134
Sec. 5748.01. As used in this chapter:	19135
(A) "School district income tax" means an income tax	19136
adopted under one of the following:	19137
(1) Former section 5748.03 of the Revised Code as it	19138
existed prior to its repeal by Amended Substitute House Bill No.	19139
291 of the 115th general assembly;	19140
(2) Section 5748.03 of the Revised Code as enacted in	19141
Substitute Senate Bill No. 28 of the 118th general assembly;	19142
(3) Section 5748.08 of the Revised Code as enacted in	19143
Amended Substitute Senate Bill No. 17 of the 122nd general	19144
assembly;	19145
(4) Section 5748.021 of the Revised Code;	19146
(5) Section 5748.081 of the Revised Code;	19147
(6) Section 5748.09 of the Revised Code.	19148
(B) "Individual" means an individual subject to the tax	19149
levied by section 5747.02 of the Revised Code.	19150
(C) "Estate" means an estate subject to the tax levied by	19151
section 5747.02 of the Revised Code.	19152
(D) "Taxable year" means a taxable year as defined in	19153
division (M) of section 5747.01 of the Revised Code.	19154
(E) "Taxable income" means:	19155
(1) In the case of an individual, one of the following, as	19156
specified in the resolution imposing the tax:	19157
(a) Ohio adjusted gross income for the taxable year as	19158

defined in division (A) of section 5747.01 of the Revised Code, 19159
less the exemptions provided by section 5747.02 of the Revised 19160
Code, plus any amount deducted under division (A) ~~(31)~~ (28) of 19161
section 5747.01 of the Revised Code for the taxable year; 19162

(b) Wages, salaries, tips, and other employee compensation 19163
to the extent included in Ohio adjusted gross income as defined 19164
in section 5747.01 of the Revised Code, and net earnings from 19165
self-employment, as defined in section 1402(a) of the Internal 19166
Revenue Code, to the extent included in Ohio adjusted gross 19167
income. 19168

(2) In the case of an estate, taxable income for the 19169
taxable year as defined in division (S) of section 5747.01 of 19170
the Revised Code. 19171

(F) "Resident" of the school district means: 19172

(1) An individual who is a resident of this state as 19173
defined in division (I) of section 5747.01 of the Revised Code 19174
during all or a portion of the taxable year and who, during all 19175
or a portion of such period of state residency, is domiciled in 19176
the school district or lives in and maintains a permanent place 19177
of abode in the school district; 19178

(2) An estate of a decedent who, at the time of death, was 19179
domiciled in the school district. 19180

(G) "School district income" means: 19181

(1) With respect to an individual, the portion of the 19182
taxable income of an individual that is received by the 19183
individual during the portion of the taxable year that the 19184
individual is a resident of the school district and the school 19185
district income tax is in effect in that school district. An 19186
individual may have school district income with respect to more 19187

than one school district. 19188

(2) With respect to an estate, the taxable income of the 19189
estate for the portion of the taxable year that the school 19190
district income tax is in effect in that school district. 19191

(H) "Taxpayer" means an individual or estate having school 19192
district income upon which a school district income tax is 19193
imposed. 19194

(I) "School district purposes" means any of the purposes 19195
for which a tax may be levied pursuant to division (A) of 19196
section 5705.21 of the Revised Code, including the combined 19197
purposes authorized by section 5705.217 of the Revised Code. 19198

Sec. 5748.08. (A) The board of education of a city, local, 19199
or exempted village school district, at any time by a vote of 19200
two-thirds of all its members, may declare by resolution that it 19201
may be necessary for the school district to do all of the 19202
following: 19203

(1) Raise a specified amount of money for school district 19204
purposes by levying an annual tax on school district income; 19205

(2) Issue general obligation bonds for permanent 19206
improvements, stating in the resolution the necessity and 19207
purpose of the bond issue and the amount, approximate date, 19208
estimated rate of interest, and maximum number of years over 19209
which the principal of the bonds may be paid; 19210

(3) Levy a tax outside the ten-mill limitation to pay debt 19211
charges on the bonds and any anticipatory securities; 19212

(4) Submit the question of the school district income tax 19213
and bond issue to the electors of the district at a special 19214
election. 19215

The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E) (1) (a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E) (1) (b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor no later than one hundred five days prior to the date of the special election at which the board intends to propose the income tax and bond issue. Not later than ten days of receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A) (1) and (2) of that section and certify them to the board. Not later than ten days of receipt of the resolution, the county auditor shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on school district income and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent

improvements and to levy an additional tax in excess of the ten- 19247
mill limitation to pay the debt charges on the bonds and any 19248
anticipatory securities; and that the question of the bonds and 19249
taxes shall be submitted to the electors of the school district 19250
at a special election, which shall not be earlier than ninety 19251
days after certification of the resolution to the board of 19252
elections, and the date of which shall be consistent with 19253
section 3501.01 of the Revised Code. The resolution shall 19254
specify all of the following: 19255

(1) The purpose for which the school district income tax 19256
is to be imposed and the rate of the tax, which shall be the 19257
rate set forth in the tax commissioner's certification rounded 19258
to the nearest one-fourth of one per cent; 19259

(2) Whether the income that is to be subject to the tax is 19260
taxable income of individuals and estates as defined in 19261
divisions (E) (1) (a) and (2) of section 5748.01 of the Revised 19262
Code or taxable income of individuals as defined in division (E) 19263
(1) (b) of that section. The specification shall be the same as 19264
the specification in the resolution adopted and certified under 19265
division (A) of this section. 19266

(3) The number of years the tax will be levied, or that it 19267
will be levied for a continuing period of time; 19268

(4) The date on which the tax shall take effect, which 19269
shall be the first day of January of any year following the year 19270
in which the question is submitted; 19271

(5) The county auditor's estimate of the average annual 19272
property tax rate required throughout the stated maturity of the 19273
bonds to pay debt charges on the bonds. 19274

(C) A resolution adopted under division (B) of this 19275

section shall go into immediate effect upon its passage, and no 19276
publication of the resolution shall be necessary other than that 19277
provided for in the notice of election. Immediately after its 19278
adoption and at least ninety days prior to the election at which 19279
the question will appear on the ballot, the board of education 19280
shall certify a copy of the resolution, along with copies of the 19281
auditor's estimate and its resolution under division (A) of this 19282
section, to the board of elections of the proper county. The 19283
board of ~~education~~elections shall make the arrangements for the 19284
submission of the question to the electors of the school 19285
district, and the election shall be conducted, canvassed, and 19286
certified in the same manner as regular elections in the 19287
district for the election of county officers. 19288

The resolution shall be put before the electors as one 19289
ballot question, with a majority vote indicating approval of the 19290
school district income tax, the bond issue, and the levy to pay 19291
debt charges on the bonds and any anticipatory securities. The 19292
board of elections shall publish the notice of the election in a 19293
newspaper of general circulation in the school district once a 19294
week for two consecutive weeks, or as provided in section 7.16 19295
of the Revised Code, prior to the election. If the board of 19296
elections operates and maintains a web site, it also shall post 19297
notice of the election on its web site for thirty days prior to 19298
the election. The notice of election shall state all of the 19299
following: 19300

- (1) The questions to be submitted to the electors; 19301
- (2) The rate of the school district income tax; 19302
- (3) The principal amount of the proposed bond issue; 19303
- (4) The permanent improvements for which the bonds are to 19304

be issued; 19305

(5) The maximum number of years over which the principal 19306
of the bonds may be paid; 19307

(6) The estimated additional average annual property tax 19308
rate to pay the debt charges on the bonds, as certified by the 19309
county auditor; 19310

(7) The time and place of the special election. 19311

(D) The form of the ballot on a question submitted to the 19312
electors under this section shall be as follows: 19313

"Shall the school district be authorized to do 19314
both of the following: 19315

(1) Impose an annual income tax of (state the 19316
proposed rate of tax) on the school district income of 19317
individuals and of estates, for (state the number of 19318
years the tax would be levied, or that it would be levied for a 19319
continuing period of time), beginning (state the date 19320
the tax would first take effect), for the purpose of 19321
(state the purpose of the tax)? 19322

(2) Issue bonds for the purpose of in the 19323
principal amount of \$....., to be repaid annually over a 19324
maximum period of years, and levy a property tax outside 19325
the ten-mill limitation estimated by the county auditor to 19326
average over the bond repayment period mills for each 19327
one dollar of tax valuation, which amounts to (rate 19328
expressed in cents or dollars and cents, such as "36 cents" or 19329
"\$1.41") for each \$100 of tax valuation, to pay the annual debt 19330
charges on the bonds, and to pay debt charges on any notes 19331
issued in anticipation of those bonds? 19332

FOR THE INCOME TAX AND BOND ISSUE
AGAINST THE INCOME TAX AND BOND ISSUE

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(E) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E) (1) (b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

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(F) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it, the income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution, and the board of education may proceed with issuance of the bonds and with the levy and collection of the property taxes to pay debt charges on the bonds, at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

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(G) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year

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after the year of their issuance over a period not to exceed 19363
five years, and may have a principal payment in the year of 19364
their issuance. 19365

(H) The question of repeal of a school district income tax 19366
levied for more than five years may be initiated and submitted 19367
in accordance with section 5748.04 of the Revised Code. 19368

(I) No board of education shall submit a question under 19369
this section to the electors of the school district more than 19370
twice in any calendar year. If a board submits the question 19371
twice in any calendar year, one of the elections on the question 19372
shall be held on the date of the general election. 19373

Sec. 5748.09. (A) The board of education of a city, local, 19374
or exempted village school district, at any time by a vote of 19375
two-thirds of all its members, may declare by resolution that it 19376
may be necessary for the school district to do all of the 19377
following: 19378

(1) Raise a specified amount of money for school district 19379
purposes by levying an annual tax on school district income; 19380

(2) Levy an additional property tax in excess of the ten- 19381
mill limitation for the purpose of providing for the necessary 19382
requirements of the district, stating in the resolution the 19383
amount of money to be raised each year for such purpose; 19384

(3) Submit the question of the school district income tax 19385
and property tax to the electors of the district at a special 19386
election. 19387

The resolution shall specify whether the income that is to 19388
be subject to the tax is taxable income of individuals and 19389
estates as defined in divisions (E) (1) (a) and (2) of section 19390
5748.01 of the Revised Code or taxable income of individuals as 19391

defined in division (E) (1) (b) of that section. 19392

On adoption of the resolution, the board shall certify a 19393
copy of it to the tax commissioner and the county auditor not 19394
later than one hundred days prior to the date of the special 19395
election at which the board intends to propose the income tax 19396
and property tax. Not later than ten days after receipt of the 19397
resolution, the tax commissioner, in the same manner as required 19398
by division (A) of section 5748.02 of the Revised Code, shall 19399
estimate the rates designated in divisions (A) (1) and (2) of 19400
that section and certify them to the board. Not later than ten 19401
days after receipt of the resolution, the county auditor, in the 19402
same manner as required by section 5705.195 of the Revised Code, 19403
shall make the calculation specified in that section and certify 19404
it to the board. 19405

(B) On receipt of the tax commissioner's and county 19406
auditor's certifications prepared under division (A) of this 19407
section, the board of education of the city, local, or exempted 19408
village school district, by a vote of two-thirds of all its 19409
members, may adopt a resolution declaring that the amount of 19410
taxes that can be raised by all tax levies the district is 19411
authorized to impose, when combined with state and federal 19412
revenues, will be insufficient to provide an adequate amount for 19413
the present and future requirements of the school district, and 19414
that it is therefore necessary to levy, for a specified number 19415
of years or for a continuing period of time, an annual tax for 19416
school district purposes on school district income, and to levy, 19417
for a specified number of years not exceeding ten or for a 19418
continuing period of time, an additional property tax in excess 19419
of the ten-mill limitation for the purpose of providing for the 19420
necessary requirements of the district, and declaring that the 19421
question of the school district income tax and property tax 19422

shall be submitted to the electors of the school district at a 19423
special election, which shall not be earlier than ninety days 19424
after certification of the resolution to the board of elections, 19425
and the date of which shall be consistent with section 3501.01 19426
of the Revised Code. The resolution shall specify all of the 19427
following: 19428

(1) The purpose for which the school district income tax 19429
is to be imposed and the rate of the tax, which shall be the 19430
rate set forth in the tax commissioner's certification rounded 19431
to the nearest one-fourth of one per cent; 19432

(2) Whether the income that is to be subject to the tax is 19433
taxable income of individuals and estates as defined in 19434
divisions (E) (1) (a) and (2) of section 5748.01 of the Revised 19435
Code or taxable income of individuals as defined in division (E) 19436
(1) (b) of that section. The specification shall be the same as 19437
the specification in the resolution adopted and certified under 19438
division (A) of this section. 19439

(3) The number of years the school district income tax 19440
will be levied, or that it will be levied for a continuing 19441
period of time; 19442

(4) The date on which the school district income tax shall 19443
take effect, which shall be the first day of January of any year 19444
following the year in which the question is submitted; 19445

(5) The amount of money it is necessary to raise for the 19446
purpose of providing for the necessary requirements of the 19447
district for each year the property tax is to be imposed; 19448

(6) The number of years the property tax will be levied, 19449
or that it will be levied for a continuing period of time; 19450

(7) The tax list upon which the property tax shall be 19451

first levied, which may be the current year's tax list; 19452

(8) The amount of the average tax levy, expressed in 19453
dollars and cents for each one hundred dollars of valuation as 19454
well as in mills for each one dollar of valuation, estimated by 19455
the county auditor under division (A) of this section. 19456

(C) A resolution adopted under division (B) of this 19457
section shall go into immediate effect upon its passage, and no 19458
publication of the resolution shall be necessary other than that 19459
provided for in the notice of election. Immediately after its 19460
adoption and at least ninety days prior to the election at which 19461
the question will appear on the ballot, the board of education 19462
shall certify a copy of the resolution, along with copies of the 19463
county auditor's certification and the resolution under division 19464
(A) of this section, to the board of elections of the proper 19465
county. The board of education shall make the arrangements for 19466
the submission of the question to the electors of the school 19467
district, and the election shall be conducted, canvassed, and 19468
certified in the same manner as regular elections in the 19469
district for the election of county officers. 19470

The resolution shall be put before the electors as one 19471
ballot question, with a majority vote indicating approval of the 19472
school district income tax and the property tax. The board of 19473
elections shall publish the notice of the election in a 19474
newspaper of general circulation in the school district once a 19475
week for two consecutive weeks, or as provided in section 7.16 19476
of the Revised Code, prior to the election. If the board of 19477
elections operates and maintains a web site, also shall post 19478
notice of the election on its web site for thirty days prior to 19479
the election. The notice of election shall state all of the 19480
following: 19481

(1) The questions to be submitted to the electors as a single ballot question;	19482 19483
(2) The rate of the school district income tax;	19484
(3) The number of years the school district income tax will be levied or that it will be levied for a continuing period of time;	19485 19486 19487
(4) The annual proceeds of the proposed property tax levy for the purpose of providing for the necessary requirements of the district;	19488 19489 19490
(5) The number of years during which the property tax levy shall be levied, or that it shall be levied for a continuing period of time;	19491 19492 19493
(6) The estimated average additional tax rate of the property tax, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, as certified by the county auditor;	19494 19495 19496 19497 19498 19499
(7) The time and place of the special election.	19500
(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:	19501 19502
"Shall the school district be authorized to do both of the following:	19503 19504
(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date	19505 19506 19507 19508 19509

the tax would first take effect), for the purpose of 19510
(state the purpose of the tax)? 19511

(2) Impose a property tax levy outside of the ten-mill 19512
limitation for the purpose of providing for the necessary 19513
requirements of the district in the sum of 19514
(here insert annual amount the levy is to produce), estimated by 19515
the county auditor to average (here insert 19516
number of mills) mills for each one dollar of valuation, which 19517
amounts to (here insert rate expressed in 19518
dollars and cents) for each one hundred dollars of valuation, 19519
for (state the number of years the tax is to be 19520
imposed or that it will be imposed for a continuing period of 19521
time), commencing in (first year the tax is to be 19522
levied), first due in calendar year (first calendar 19523
year in which the tax shall be due)? 19524

| FOR THE INCOME TAX AND PROPERTY TAX
| AGAINST THE INCOME TAX AND PROPERTY TAX

" 19528

If the question submitted to electors proposes a school 19529
district income tax only on the taxable income of individuals as 19530
defined in division (E)(1)(b) of section 5748.01 of the Revised 19531
Code, the form of the ballot shall be modified by stating that 19532
the tax is to be levied on the "earned income of individuals 19533
residing in the school district" in lieu of the "school district 19534
income of individuals and of estates." 19535

(E) The board of elections promptly shall certify the 19536
results of the election to the tax commissioner and the county 19537
auditor of the county in which the school district is located. 19538

If a majority of the electors voting on the question vote in favor of it: 19539
19540

(1) The income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution. 19541
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(2) The board of education of the school district may make the additional property tax levy necessary to raise the amount specified on the ballot for the purpose of providing for the necessary requirements of the district. The property tax levy shall be included in the next tax budget that is certified to the county budget commission. 19544
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(F) (1) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance. 19550
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(2) After the approval of a question under this section and prior to the time when the first tax collection from the property tax levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, 19559
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and may have a principal payment in the year of their issuance. 19569

(G) (1) The question of repeal of a school district income 19570
tax levied for more than five years may be initiated and 19571
submitted in accordance with section 5748.04 of the Revised 19572
Code. 19573

(2) A property tax levy for a continuing period of time 19574
may be reduced in the manner provided under section 5705.261 of 19575
the Revised Code. 19576

(H) No board of education shall submit a question under 19577
this section to the electors of the school district more than 19578
twice in any calendar year. If a board submits the question 19579
twice in any calendar year, one of the elections on the question 19580
shall be held on the date of the general election. 19581

(I) If the electors of the school district approve a 19582
question under this section, and if the last calendar year the 19583
school district income tax is in effect and the last calendar 19584
year of collection of the property tax are the same, the board 19585
of education of the school district may propose to submit under 19586
this section the combined question of a school district income 19587
tax to take effect upon the expiration of the existing income 19588
tax and a property tax to be first collected in the calendar 19589
year after the calendar year of last collection of the existing 19590
property tax, and specify in the resolutions adopted under this 19591
section that the proposed taxes would renew the existing taxes. 19592
The form of the ballot on a question submitted to the electors 19593
under division (I) of this section shall be as follows: 19594

"Shall the school district be authorized to do 19595
both of the following: 19596

(1) Impose an annual income tax of (state the 19597

proposed rate of tax) on the school district income of 19598
individuals and of estates to renew an income tax expiring at 19599
the end of (state the last year the existing income tax 19600
may be levied) for (state the number of years the tax 19601
would be levied, or that it would be levied for a continuing 19602
period of time), beginning (state the date the tax would 19603
first take effect), for the purpose of (state the 19604
purpose of the tax)? 19605

(2) Impose a property tax levy renewing an existing levy 19606
outside of the ten-mill limitation for the purpose of providing 19607
for the necessary requirements of the district in the sum 19608
of (here insert annual amount the levy is to 19609
produce), estimated by the county auditor to 19610
average (here insert number of mills) mills 19611
for each one dollar of valuation, which amounts 19612
to (here insert rate expressed in dollars and 19613
cents) for each one hundred dollars of valuation, 19614
for (state the number of years the tax is to be 19615
imposed or that it will be imposed for a continuing period of 19616
time), commencing in (first year the tax is to be 19617
levied), first due in calendar year (first calendar 19618
year in which the tax shall be due)? 19619

| FOR THE INCOME TAX AND PROPERTY TAX
| AGAINST THE INCOME TAX AND PROPERTY TAX

"

If the question submitted to electors proposes a school 19624
district income tax only on the taxable income of individuals as 19625
defined in division (E) (1) (b) of section 5748.01 of the Revised 19626
Code, the form of the ballot shall be modified by stating that 19627

the tax is to be levied on the "earned income of individuals 19628
residing in the school district" in lieu of the "school district 19629
income of individuals and of estates." 19630

The question of a renewal levy under this division shall 19631
not be placed on the ballot unless the question is submitted on 19632
a date on which a special election may be held under section 19633
3501.01 of the Revised Code, except for the first Tuesday after 19634
the first Monday in ~~February and August~~, during the last year 19635
the property tax levy to be renewed may be extended on the real 19636
and public utility property tax list and duplicate, or at any 19637
election held in the ensuing year. 19638

(J) If the electors of the school district approve a 19639
question under this section, the board of education of the 19640
school district may propose to renew either or both of the 19641
existing taxes as individual ballot questions in accordance with 19642
section 5748.02 of the Revised Code for the school district 19643
income tax, or section 5705.194 of the Revised Code for the 19644
property tax. 19645

Sec. 5751.01. As used in this chapter: 19646

(A) "Person" means, but is not limited to, individuals, 19647
combinations of individuals of any form, receivers, assignees, 19648
trustees in bankruptcy, firms, companies, joint-stock companies, 19649
business trusts, estates, partnerships, limited liability 19650
partnerships, limited liability companies, associations, joint 19651
ventures, clubs, societies, for-profit corporations, S 19652
corporations, qualified subchapter S subsidiaries, qualified 19653
subchapter S trusts, trusts, entities that are disregarded for 19654
federal income tax purposes, and any other entities. 19655

(B) "Consolidated elected taxpayer" means a group of two 19656

or more persons treated as a single taxpayer for purposes of 19657
this chapter as the result of an election made under section 19658
5751.011 of the Revised Code. 19659

(C) "Combined taxpayer" means a group of two or more 19660
persons treated as a single taxpayer for purposes of this 19661
chapter under section 5751.012 of the Revised Code. 19662

(D) "Taxpayer" means any person, or any group of persons 19663
in the case of a consolidated elected taxpayer or combined 19664
taxpayer treated as one taxpayer, required to register or pay 19665
tax under this chapter. "Taxpayer" does not include excluded 19666
persons. 19667

(E) "Excluded person" means any of the following: 19668

(1) Any person with not more than one hundred fifty 19669
thousand dollars of taxable gross receipts during the calendar 19670
year. Division (E)(1) of this section does not apply to a person 19671
that is a member of a consolidated elected taxpayer; 19672

(2) A public utility that paid the excise tax imposed by 19673
section 5727.24 or 5727.30 of the Revised Code based on one or 19674
more measurement periods that include the entire tax period 19675
under this chapter, except that a public utility that is a 19676
combined company is a taxpayer with regard to the following 19677
gross receipts: 19678

(a) Taxable gross receipts directly attributed to a public 19679
utility activity, but not directly attributed to an activity 19680
that is subject to the excise tax imposed by section 5727.24 or 19681
5727.30 of the Revised Code; 19682

(b) Taxable gross receipts that cannot be directly 19683
attributed to any activity, multiplied by a fraction whose 19684
numerator is the taxable gross receipts described in division 19685

(E) (2) (a) of this section and whose denominator is the total 19686
taxable gross receipts that can be directly attributed to any 19687
activity; 19688

(c) Except for any differences resulting from the use of 19689
an accrual basis method of accounting for purposes of 19690
determining gross receipts under this chapter and the use of the 19691
cash basis method of accounting for purposes of determining 19692
gross receipts under section 5727.24 of the Revised Code, the 19693
gross receipts directly attributed to the activity of a natural 19694
gas company shall be determined in a manner consistent with 19695
division (D) of section 5727.03 of the Revised Code. 19696

As used in division (E) (2) of this section, "combined 19697
company" and "public utility" have the same meanings as in 19698
section 5727.01 of the Revised Code. 19699

(3) A financial institution, as defined in section 5726.01 19700
of the Revised Code, that paid the tax imposed by section 19701
5726.02 of the Revised Code based on one or more taxable years 19702
that include the entire tax period under this chapter; 19703

(4) A person directly or indirectly owned by one or more 19704
financial institutions, as defined in section 5726.01 of the 19705
Revised Code, that paid the tax imposed by section 5726.02 of 19706
the Revised Code based on one or more taxable years that include 19707
the entire tax period under this chapter. 19708

For the purposes of division (E) (4) of this section, a 19709
person owns another person under the following circumstances: 19710

(a) In the case of corporations issuing capital stock, one 19711
corporation owns another corporation if it owns fifty per cent 19712
or more of the other corporation's capital stock with current 19713
voting rights; 19714

(b) In the case of a limited liability company, one person 19715
owns the company if that person's membership interest, as 19716
defined in section 1705.01 of the Revised Code, is fifty per 19717
cent or more of the combined membership interests of all persons 19718
owning such interests in the company; 19719

(c) In the case of a partnership, trust, or other 19720
unincorporated business organization other than a limited 19721
liability company, one person owns the organization if, under 19722
the articles of organization or other instrument governing the 19723
affairs of the organization, that person has a beneficial 19724
interest in the organization's profits, surpluses, losses, or 19725
distributions of fifty per cent or more of the combined 19726
beneficial interests of all persons having such an interest in 19727
the organization. 19728

(5) A domestic insurance company or foreign insurance 19729
company, as defined in section 5725.01 of the Revised Code, that 19730
paid the insurance company premiums tax imposed by section 19731
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 19732
insurance company whose gross premiums are subject to tax under 19733
section 3905.36 of the Revised Code based on one or more 19734
measurement periods that include the entire tax period under 19735
this chapter; 19736

(6) A person that solely facilitates or services one or 19737
more securitizations of phase-in-recovery property pursuant to a 19738
final financing order as those terms are defined in section 19739
4928.23 of the Revised Code. For purposes of this division, 19740
"securitization" means transferring one or more assets to one or 19741
more persons and then issuing securities backed by the right to 19742
receive payment from the asset or assets so transferred. 19743

(7) Except as otherwise provided in this division, a pre- 19744

income tax trust as defined in division ~~(FF)~~(EE) (4) of section 19745
5747.01 of the Revised Code and any pass-through entity of which 19746
such pre-income tax trust owns or controls, directly, 19747
indirectly, or constructively through related interests, more 19748
than five per cent of the ownership or equity interests. If the 19749
pre-income tax trust has made a qualifying pre-income tax trust 19750
election under division ~~(FF)~~(EE) (3) of section 5747.01 of the 19751
Revised Code, then the trust and the pass-through entities of 19752
which it owns or controls, directly, indirectly, or 19753
constructively through related interests, more than five per 19754
cent of the ownership or equity interests, shall not be excluded 19755
persons for purposes of the tax imposed under section 5751.02 of 19756
the Revised Code. 19757

(8) Nonprofit organizations or the state and its agencies, 19758
instrumentalities, or political subdivisions. 19759

(F) Except as otherwise provided in divisions (F) (2), (3), 19760
and (4) of this section, "gross receipts" means the total amount 19761
realized by a person, without deduction for the cost of goods 19762
sold or other expenses incurred, that contributes to the 19763
production of gross income of the person, including the fair 19764
market value of any property and any services received, and any 19765
debt transferred or forgiven as consideration. 19766

(1) The following are examples of gross receipts: 19767

(a) Amounts realized from the sale, exchange, or other 19768
disposition of the taxpayer's property to or with another; 19769

(b) Amounts realized from the taxpayer's performance of 19770
services for another; 19771

(c) Amounts realized from another's use or possession of 19772
the taxpayer's property or capital; 19773

(d) Any combination of the foregoing amounts.	19774
(2) "Gross receipts" excludes the following amounts:	19775
(a) Interest income except interest on credit sales;	19776
(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;	19777 19778 19779 19780
(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.	19781 19782 19783 19784 19785 19786 19787 19788 19789 19790 19791 19792 19793 19794 19795 19796 19797 19798 19799
(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;	19800 19801 19802

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;	19803 19804 19805
(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;	19806 19807 19808 19809
(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;	19810 19811 19812 19813 19814 19815 19816 19817 19818
(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;	19819 19820 19821
(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;	19822 19823 19824
(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;	19825 19826 19827 19828 19829 19830 19831

(k) Damages received as the result of litigation in excess	19832
of amounts that, if received without litigation, would be gross	19833
receipts;	19834
(l) Property, money, and other amounts received or	19835
acquired by an agent on behalf of another in excess of the	19836
agent's commission, fee, or other remuneration;	19837
(m) Tax refunds, other tax benefit recoveries, and	19838
reimbursements for the tax imposed under this chapter made by	19839
entities that are part of the same combined taxpayer or	19840
consolidated elected taxpayer group, and reimbursements made by	19841
entities that are not members of a combined taxpayer or	19842
consolidated elected taxpayer group that are required to be made	19843
for economic parity among multiple owners of an entity whose tax	19844
obligation under this chapter is required to be reported and	19845
paid entirely by one owner, pursuant to the requirements of	19846
sections 5751.011 and 5751.012 of the Revised Code;	19847
(n) Pension reversions;	19848
(o) Contributions to capital;	19849
(p) Sales or use taxes collected as a vendor or an out-of-	19850
state seller on behalf of the taxing jurisdiction from a	19851
consumer or other taxes the taxpayer is required by law to	19852
collect directly from a purchaser and remit to a local, state,	19853
or federal tax authority;	19854
(q) In the case of receipts from the sale of cigarettes or	19855
tobacco products by a wholesale dealer, retail dealer,	19856
distributor, manufacturer, or seller, all as defined in section	19857
5743.01 of the Revised Code, an amount equal to the federal and	19858
state excise taxes paid by any person on or for such cigarettes	19859
or tobacco products under subtitle E of the Internal Revenue	19860

Code or Chapter 5743. of the Revised Code; 19861

(r) In the case of receipts from the sale, transfer, 19862
exchange, or other disposition of motor fuel as "motor fuel" is 19863
defined in section 5736.01 of the Revised Code, an amount equal 19864
to the value of the motor fuel, including federal and state 19865
motor fuel excise taxes and receipts from billing or invoicing 19866
the tax imposed under section 5736.02 of the Revised Code to 19867
another person; 19868

(s) In the case of receipts from the sale of beer or 19869
intoxicating liquor, as defined in section 4301.01 of the 19870
Revised Code, by a person holding a permit issued under Chapter 19871
4301. or 4303. of the Revised Code, an amount equal to federal 19872
and state excise taxes paid by any person on or for such beer or 19873
intoxicating liquor under subtitle E of the Internal Revenue 19874
Code or Chapter 4301. or 4305. of the Revised Code; 19875

(t) Receipts realized by a new motor vehicle dealer or 19876
used motor vehicle dealer, as defined in section 4517.01 of the 19877
Revised Code, from the sale or other transfer of a motor 19878
vehicle, as defined in that section, to another motor vehicle 19879
dealer for the purpose of resale by the transferee motor vehicle 19880
dealer, but only if the sale or other transfer was based upon 19881
the transferee's need to meet a specific customer's preference 19882
for a motor vehicle; 19883

(u) Receipts from a financial institution described in 19884
division (E)(3) of this section for services provided to the 19885
financial institution in connection with the issuance, 19886
processing, servicing, and management of loans or credit 19887
accounts, if such financial institution and the recipient of 19888
such receipts have at least fifty per cent of their ownership 19889
interests owned or controlled, directly or constructively 19890

through related interests, by common owners;	19891
(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;	19892 19893 19894 19895
(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F) (2) (w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.	19896 19897 19898 19899 19900 19901 19902 19903 19904 19905
(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;	19906 19907 19908 19909 19910
(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;	19911 19912 19913 19914 19915
(z) <u>Qualifying distribution center receipts as determined under section 5751.40 of the Revised Code.</u>	19916 19917
(i) For purposes of division (F) (2) (z) of this section:	19918
(I) "Qualifying distribution center receipts" means	19919

~~receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage. If the qualified distribution center is a refining facility, "supplier" includes all dealers, brokers, processors, sellers, vendors, cosigners, and distributors of qualified property.~~ 19920
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~~(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere or, in the case of gold, silver, platinum, or palladium delivered to a refining facility solely for refining to a grade and fineness acceptable for delivery to a registered commodities exchange. "Further shipping" includes storing and repackaging property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing. "Refining" is limited to extracting impurities from gold, silver, platinum, or palladium through smelting or some other process at a refining facility.~~ 19926
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~~(III) "Qualified distribution center" means a warehouse, a facility similar to a warehouse, or a refining facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. All warehouses or facilities similar to warehouses that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center. All refining facilities that are operated by persons in the same taxpayer group and that are located in the same or adjacent counties may be treated as one qualified distribution center.~~ 19939
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~~(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.~~ 19950
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~~(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.~~ 19952
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~~(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty five days after the distribution center opens, whichever is later.~~ 19956
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~~The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be situated outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F) (2) (z) (i) (VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally~~ 19963
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~~accepted accounting principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate effective for the remainder of the qualifying year or until the appeal is finalized, whichever is earlier. If the operator does not prevail in the appeal, the operator shall pay the ineligible operator's supplier tax liability.~~ 19980
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~~(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.~~ 19990
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~~(VIII) "Refining facility" means one or more buildings located in a county in the Appalachian region of this state as defined by section 107.21 of the Revised Code and utilized for refining or smelting gold, silver, platinum, or palladium to a grade and fineness acceptable for delivery to a registered commodities exchange.~~ 19995
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~~(IX) "Registered commodities exchange" means a board of trade, such as New York mercantile exchange, inc. or commodity exchange, inc., designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended.~~ 20001
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~~(X) "Ineligible operator's supplier tax liability" means an amount equal to the tax liability of all suppliers of a distribution center had the distribution center not been issued a qualifying certificate for the qualifying year. Ineligible~~ 20006
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~~operator's supplier tax liability shall not include interest or penalties. The tax commissioner shall determine an ineligible operator's supplier tax liability based on information that the commissioner may request from the operator of the distribution center. An operator shall provide a list of all suppliers of the distribution center and the corresponding costs of qualified property for the qualifying year at issue within sixty days of a request by the commissioner under this division.~~ 20010
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~~(ii) (I) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars during that year, then the operator of the distribution center shall pay the ineligible operator's supplier tax liability. (For purposes of division (F) (2) (z) (ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)~~ 20018
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~~(II) The commissioner may grant a qualifying certificate to a distribution center that does not qualify as a qualified distribution center for an entire qualifying period if the operator of the distribution center demonstrates that the business operations of the distribution center have changed or will change such that the distribution center will qualify as a~~ 20035
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~~qualified distribution center within thirty six months after the date the operator first applies for a certificate. If, at the end of that thirty six month period, the business operations of the distribution center have not changed such that the distribution center qualifies as a qualified distribution center, the operator of the distribution center shall pay the ineligible operator's supplier tax liability for each year that the distribution center received a certificate but did not qualify as a qualified distribution center. For each year the distribution center receives a certificate under division (F) (2) (z) (ii) (II) of this section, the distribution center shall pay all applicable fees required under division (F) (2) (z) of this section and shall submit an updated business plan showing the progress the distribution center made toward qualifying as a qualified distribution center during the preceding year.~~

~~(III) An operator may appeal a determination under division (F) (2) (z) (ii) (I) or (II) of this section that the ineligible operator is liable for the operator's supplier tax liability as a result of not qualifying as a qualified distribution center, as provided in section 5717.02 of the Revised Code.~~

~~(iii) When filing an application for a qualifying certificate under division (F) (2) (z) (i) (VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying~~

~~certificate under division (F) (2) (z) (i) (VI) of this section.~~ 20072

~~(iv) (I) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F) (2) (z) (iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.~~ 20073
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~~(II) The operator of a distribution center that receives a qualifying certificate under division (F) (2) (z) (ii) (II) of this section shall make a good faith estimate of the Ohio delivery percentage that the operator estimates will apply to the distribution center at the end of the thirty six month period after the operator first applied for a qualifying certificate under that division. The result of the estimate shall be multiplied by a factor of one and seventy five one hundredths. The product of that calculation shall be the Ohio delivery percentage used by suppliers in their reports of taxable gross~~ 20093
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~~receipts for each qualifying year that the distribution center receives a qualifying certificate under division (F) (2) (z) (ii) (II) of this section, except that, if the product is less than five per cent, the Ohio delivery percentage used shall be five per cent and that, if the product exceeds forty nine per cent, the Ohio delivery percentage used shall be forty nine per cent.~~ 20103
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~~(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F) (2) (z) of this section. An operator receiving a qualifying certificate is liable for the ineligible operator's supplier tax liability for each year the operator received a certificate but did not qualify as a qualified distribution center.~~ 20109
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~~(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F) (2) (z) (i) (VI) of this section. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the revenue enhancement fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.~~ 20119
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~~(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center.~~ 20129
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as set forth in division (F) (2) (z) of this section.	20133
(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;	20134 20135 20136
(bb) Cash discounts allowed and taken;	20137
(cc) Returns and allowances;	20138
(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;	20139 20140 20141 20142 20143 20144 20145 20146 20147 20148 20149 20150 20151 20152
(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;	20153 20154 20155 20156
(ff) Any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.	20157 20158 20159
(gg) (i) As used in this division:	20160

~~(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F) (2) (gg) (ii) of this section.~~

~~(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.~~

~~(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division (F) (2) (gg) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F) (2) (gg) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax~~

~~commissioner shall conditionally certify the applicant's~~ 20192
~~property. The conditional certification shall expire when all of~~ 20193
~~the applicant's appeals are exhausted. Until final resolution of~~ 20194
~~the appeal, the applicant shall retain the applicant's records~~ 20195
~~in accordance with section 5751.12 of the Revised Code,~~ 20196
~~notwithstanding any time limit on the preservation of records~~ 20197
~~under that section. Qualified uranium receipts as determined~~ 20198
~~under section 5751.41 of the Revised Code.~~ 20199

(hh) In the case of amounts collected by a licensed casino 20200
operator from casino gaming, amounts in excess of the casino 20201
operator's gross casino revenue. In this division, "casino 20202
operator" and "casino gaming" have the meanings defined in 20203
section 3772.01 of the Revised Code, and "gross casino revenue" 20204
has the meaning defined in section 5753.01 of the Revised Code. 20205

(ii) Receipts realized from the sale of agricultural 20206
commodities by an agricultural commodity handler, both as 20207
defined in section 926.01 of the Revised Code, that is licensed 20208
by the director of agriculture to handle agricultural 20209
commodities in this state. 20210

(jj) Qualifying integrated supply chain receipts as 20211
determined under section 5751.42 of the Revised Code. 20212

~~As used in division (F) (2) (jj) of this section:~~ 20213

~~(i) "Qualifying integrated supply chain receipts" means~~ 20214
~~receipts of a qualified integrated supply chain vendor from the~~ 20215
~~sale of qualified property delivered to, or integrated supply~~ 20216
~~chain services provided to, another qualified integrated supply~~ 20217
~~chain vendor or to a retailer that is a member of the integrated~~ 20218
~~supply chain. "Qualifying integrated supply chain receipts" does~~ 20219
~~not include receipts of a person that is not a qualified~~ 20220

~~integrated supply chain vendor from the sale of raw materials to a member of an integrated supply chain, or receipts of a member of an integrated supply chain from the sale of qualified property or integrated supply chain services to a person that is not a member of the integrated supply chain.~~ 20221
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~~(ii) "Qualified property" means any of the following:~~ 20226

~~(I) Component parts used to hold, contain, package, or dispense qualified products, excluding equipment;~~ 20227
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~~(II) Work in process inventory that will become, comprise, or form a component part of a qualified product capable of being sold at retail, excluding equipment, machinery, furniture, and fixtures;~~ 20229
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~~(III) Finished goods inventory that is a qualified product capable of being sold at retail in the inventory's present form.~~ 20233
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~~(iii) "Qualified integrated supply chain vendor" means a person that is a member of an integrated supply chain and that provides integrated supply chain services within a qualified integrated supply chain district to a retailer that is a member of the integrated supply chain or to another qualified integrated supply chain vendor that is located within the same such district as the person but does not share a common owner with that person.~~ 20235
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~~(iv) "Qualified product" means a personal care, health, or beauty product or an aromatic product, including a candle. "Qualified product" does not include a drug that may be dispensed only pursuant to a prescription, durable medical equipment, mobility enhancing equipment, or a prosthetic device, as those terms are defined in section 5739.01 of the Revised Code.~~ 20243
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~~(v) "Integrated supply chain" means two or more qualified
integrated supply chain vendors certified on the most recent
list certified to the tax commissioner under this division that
systematically collaborate and coordinate business operations
with a retailer on the flow of tangible personal property from
material sourcing through manufacturing, assembly, packaging,
and delivery to the retailer to improve long term financial
performance of each vendor and the supply chain that includes
the retailer.~~

~~For the purpose of the certification required under this
division, the reporting person for each retailer, on or before
the first day of October of each year, shall certify to the tax
commissioner a list of the qualified integrated supply chain
vendors providing or receiving integrated supply chain services
within a qualified integrated supply chain district for the
ensuing calendar year. On or before the following first day of
November, the commissioner shall issue a certificate to the
retailer and to each vendor certified to the commissioner on
that list. The certificate shall include the names of the
retailer and of the qualified integrated supply chain vendors.~~

~~The retailer shall notify the commissioner of any changes
to the list, including additions to or subtractions from the
list or changes in the name or legal entity of vendors certified
on the list, within sixty days after the date the retailer
becomes aware of the change. Within thirty days after receiving
that notification, the commissioner shall issue a revised
certificate to the retailer and to each vendor certified on the
list. The revised certificate shall include the effective date
of the change.~~

~~Each recipient of a certificate issued pursuant to this~~

~~division shall maintain a copy of the certificate for four years from the date the certificate was received.~~ 20280
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~~(vi) "Integrated supply chain services" means procuring raw materials or manufacturing, processing, refining, assembling, packaging, or repackaging tangible personal property that will become finished goods inventory capable of being sold at retail by a retailer that is a member of an integrated supply chain.~~ 20282
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~~(vii) "Retailer" means a person primarily engaged in making retail sales and any member of that person's consolidated elected taxpayer group or combined taxpayer group, whether or not that member is primarily engaged in making retail sales.~~ 20288
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~~(viii) "Qualified integrated supply chain district" means the parcel or parcels of land from which a retailer's integrated supply chain that existed on September 29, 2015, provides or receives integrated supply chain services, and to which all of the following apply:-~~ 20292
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~~(I) The parcel or parcels are located wholly in a county having a population of greater than one hundred sixty five thousand but less than one hundred seventy thousand based on the 2010 federal decennial census.~~ 20297
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~~(II) The parcel or parcels are located wholly in the corporate limits of a municipal corporation with a population greater than seven thousand five hundred and less than eight thousand based on the 2010 federal decennial census that is partly located in the county described in division (F) (2) (jj) (viii) (I) of this section, as those corporate limits existed on September 29, 2015.~~ 20301
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~~(III) The aggregate acreage of the parcel or parcels~~ 20308

~~equals or exceeds one hundred acres.~~ 20309

(kk) In the case of a railroad company described in 20310
division (D) (9) of section 5727.01 of the Revised Code that 20311
purchases dyed diesel fuel directly from a supplier as defined 20312
by section 5736.01 of the Revised Code, an amount equal to the 20313
product of the number of gallons of dyed diesel fuel purchased 20314
directly from such a supplier multiplied by the average 20315
wholesale price for a gallon of diesel fuel as determined under 20316
section 5736.02 of the Revised Code for the period during which 20317
the fuel was purchased multiplied by a fraction, the numerator 20318
of which equals the rate of tax levied by section 5736.02 of the 20319
Revised Code less the rate of tax computed in section 5751.03 of 20320
the Revised Code, and the denominator of which equals the rate 20321
of tax computed in section 5751.03 of the Revised Code. 20322

(ll) Receipts realized by an out-of-state disaster 20323
business from disaster work conducted in this state during a 20324
disaster response period pursuant to a qualifying solicitation 20325
received by the business. Terms used in ~~this~~ division (F) (2) (ll) 20326
of this section have the same meanings as in section 5703.94 of 20327
the Revised Code. 20328

(mm) Any receipts for which the tax imposed by this 20329
chapter is prohibited by the constitution or laws of the United 20330
States or the constitution of this state. 20331

(3) In the case of a taxpayer when acting as a real estate 20332
broker, "gross receipts" includes only the portion of any fee 20333
for the service of a real estate broker, or service of a real 20334
estate salesperson associated with that broker, that is retained 20335
by the broker and not paid to an associated real estate 20336
salesperson or another real estate broker. For the purposes of 20337
this division, "real estate broker" and "real estate 20338

salesperson" have the same meanings as in section 4735.01 of the Revised Code. 20339
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(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 20341
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(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code. 20348
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(H) A person has "substantial nexus with this state" if any of the following applies. The person: 20350
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(1) Owns or uses a part or all of its capital in this state; 20352
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(2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state; 20354
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(3) Has bright-line presence in this state; 20356

(4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States. 20357
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(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person: 20360
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(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is 20363
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valued at eight times the net annual rental charge. 20367

(2) Has during the calendar year payroll in this state of 20368
at least fifty thousand dollars. Payroll in this state includes 20369
all of the following: 20370

(a) Any amount subject to withholding by the person under 20371
section 5747.06 of the Revised Code; 20372

(b) Any other amount the person pays as compensation to an 20373
individual under the supervision or control of the person for 20374
work done in this state; and 20375

(c) Any amount the person pays for services performed in 20376
this state on its behalf by another. 20377

(3) Has during the calendar year taxable gross receipts of 20378
at least five hundred thousand dollars. 20379

(4) Has at any time during the calendar year within this 20380
state at least twenty-five per cent of the person's total 20381
property, total payroll, or total gross receipts. 20382

(5) Is domiciled in this state as an individual or for 20383
corporate, commercial, or other business purposes. 20384

(J) "Tangible personal property" has the same meaning as 20385
in section 5739.01 of the Revised Code. 20386

(K) "Internal Revenue Code" means the Internal Revenue 20387
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 20388
used in this chapter that is not otherwise defined has the same 20389
meaning as when used in a comparable context in the laws of the 20390
United States relating to federal income taxes unless a 20391
different meaning is clearly required. Any reference in this 20392
chapter to the Internal Revenue Code includes other laws of the 20393
United States relating to federal income taxes. 20394

- (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. 20395
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- (M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter. 20398
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- (N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year. 20401
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- (O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter. 20403
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- (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: 20405
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- (1) A person receiving a fee to sell financial instruments; 20408
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- (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person; 20410
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- (3) A person issuing licenses and permits under section 1533.13 of the Revised Code; 20413
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- (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code; 20415
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- (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code. 20417
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- (Q) "Received" includes amounts accrued under the accrual method of accounting. 20419
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- (R) "Reporting person" means a person in a consolidated 20421

elected taxpayer or combined taxpayer group that is designated 20422
by that group to legally bind the group for all filings and tax 20423
liabilities and to receive all legal notices with respect to 20424
matters under this chapter, or, for the purposes of section 20425
5751.04 of the Revised Code, a separate taxpayer that is not a 20426
member of such a group. 20427

Sec. 5751.08. (A) An application for refund to the 20428
taxpayer of the amount of taxes imposed under this chapter that 20429
are overpaid, paid illegally or erroneously, or paid on any 20430
illegal or erroneous assessment shall be filed by the reporting 20431
person with the tax commissioner, on the form prescribed by the 20432
commissioner, within four years after the date of the illegal or 20433
erroneous payment of the tax, or within any additional period 20434
allowed under division (F) of section 5751.09 of the Revised 20435
Code. The applicant shall provide the amount of the requested 20436
refund along with the claimed reasons for, and documentation to 20437
support, the issuance of a refund. 20438

(B) On the filing of the refund application, the tax 20439
commissioner shall determine the amount of refund to which the 20440
applicant is entitled. If the amount is not less than that 20441
claimed, the commissioner shall certify the amount to the 20442
director of budget and management and treasurer of state for 20443
payment from the tax refund fund created under section 5703.052 20444
of the Revised Code. If the amount is less than that claimed, 20445
the commissioner shall proceed in accordance with section 20446
5703.70 of the Revised Code. 20447

(C) Interest on a refund applied for under this section, 20448
computed at the rate provided for in section 5703.47 of the 20449
Revised Code, shall be allowed from the later of the date the 20450
tax was paid or when the tax payment was due. 20451

(D) A calendar quarter taxpayer with more than one million 20452
dollars in taxable gross receipts in a calendar year other than 20453
calendar year 2005 and that is not able to exclude one million 20454
dollars in taxable gross receipts because of the operation of 20455
the taxpayer's business in that calendar year may file for a 20456
refund under this section to obtain the full exclusion of one 20457
million dollars in taxable gross receipts for that calendar 20458
year. 20459

(E) Except as provided in section 5751.081 of the Revised 20460
Code, the tax commissioner may, with the consent of the 20461
taxpayer, provide for the crediting against tax due for a tax 20462
~~year period~~ the amount of any refund due the taxpayer under this 20463
chapter for a preceding tax ~~year period~~. 20464

Sec. 5751.09. (A) The tax commissioner may make an 20465
assessment, based on any information in the commissioner's 20466
possession, against any person that fails to file a return or 20467
pay any tax as required by this chapter. The commissioner shall 20468
give the person assessed written notice of the assessment as 20469
provided in section 5703.37 of the Revised Code. With the 20470
notice, the commissioner shall provide instructions on the 20471
manner in which to petition for reassessment and request a 20472
hearing with respect to the petition. The commissioner shall 20473
send any assessments against consolidated elected taxpayer and 20474
combined taxpayer groups under section 5751.011 or 5751.012 of 20475
the Revised Code to the taxpayer's "reporting person" ~~as defined~~ 20476
~~under division (R) of section 5751.01 of the Revised Code.~~ The 20477
reporting person shall notify all members of the group of the 20478
assessment and all outstanding taxes, interest, and penalties 20479
for which the assessment is issued. 20480

(B) Unless the person assessed, within sixty days after 20481

service of the notice of assessment, files with the tax 20482
commissioner, either personally or by certified mail, a written 20483
petition signed by the person or the person's authorized agent 20484
having knowledge of the facts, the assessment becomes final, and 20485
the amount of the assessment is due and payable from the person 20486
assessed to the treasurer of state. The petition shall indicate 20487
the objections of the person assessed, but additional objections 20488
may be raised in writing if received by the commissioner prior 20489
to the date shown on the final determination. 20490

If a petition for reassessment has been properly filed, 20491
the commissioner shall proceed under section 5703.60 of the 20492
Revised Code. 20493

(C) (1) After an assessment becomes final, if any portion 20494
of the assessment, including accrued interest, remains unpaid, a 20495
certified copy of the tax commissioner's entry making the 20496
assessment final may be filed in the office of the clerk of the 20497
court of common pleas in the county in which the person resides 20498
or has its principal place of business in this state, or in the 20499
office of the clerk of court of common pleas of Franklin county. 20500

(2) Immediately upon the filing of the entry, the clerk 20501
shall enter judgment for the state against the person assessed 20502
in the amount shown on the entry. The judgment may be filed by 20503
the clerk in a loose-leaf book entitled, "special judgments for 20504
the commercial activity tax" and shall have the same effect as 20505
other judgments. Execution shall issue upon the judgment at the 20506
request of the tax commissioner, and all laws applicable to 20507
sales on execution shall apply to sales made under the judgment. 20508

(3) If the assessment is not paid in its entirety within 20509
sixty days after the day the assessment was issued, the portion 20510
of the assessment consisting of tax due shall bear interest at 20511

the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until it is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the person assessed or the person's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives under this section, and such amounts shall be considered as revenue arising from the tax imposed under this chapter.

(F) Except as otherwise provided in this division, no assessment shall be made or issued against a taxpayer for the tax imposed under this chapter more than four years after the due date for the filing of the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. The time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension or enter into an agreement waiving or extending the time limit. Any such extension shall extend the four-year time limit in division (B) of section 5751.08 of the Revised Code for the same period of time. Nothing in this division bars an assessment against a taxpayer that fails to file a return required by this chapter or that files a fraudulent return.

(G) If the tax commissioner possesses information that indicates that the amount of tax a taxpayer is required to pay under this chapter exceeds the amount the taxpayer paid, the tax commissioner may audit a sample of the taxpayer's gross receipts over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the taxpayer in selecting a representative sample. The tax commissioner may apply a sampling method only if the commissioner has prescribed the method by rule.

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the commissioner shall

follow the procedures under section 5703.37 of the Revised Code. 20573

Sec. 5751.40. (A) As used in this section and division (F) 20574
(2)(z) of section 5751.01 of the Revised Code: 20575

(1) "Qualifying distribution center receipts" means 20576
receipts of a supplier from qualified property that is delivered 20577
to a qualified distribution center, multiplied by a quantity 20578
that equals one minus the Ohio delivery percentage. If the 20579
qualified distribution center is a refining facility, "supplier" 20580
includes all dealers, brokers, processors, sellers, vendors, 20581
cosigners, and distributors of qualified property. 20582

(2) "Qualified property" means tangible personal property 20583
delivered to a qualified distribution center that is shipped to 20584
that qualified distribution center solely for further shipping 20585
by the qualified distribution center to another location in this 20586
state or elsewhere or, in the case of gold, silver, platinum, or 20587
palladium delivered to a refining facility solely for refining 20588
to a grade and fineness acceptable for delivery to a registered 20589
commodities exchange. "Further shipping" includes storing and 20590
repackaging property into smaller or larger bundles, so long as 20591
the property is not subject to further manufacturing or 20592
processing. "Refining" is limited to extracting impurities from 20593
gold, silver, platinum, or palladium through smelting or some 20594
other process at a refining facility. 20595

(3) "Qualified distribution center" means a warehouse, a 20596
facility similar to a warehouse, or a refining facility in this 20597
state that, for the qualifying year, is operated by a person 20598
that is not part of a combined taxpayer group and that has a 20599
qualifying certificate. All warehouses or facilities similar to 20600
warehouses that are operated by persons in the same taxpayer 20601
group and that are located within one mile of each other shall 20602

be treated as one qualified distribution center. All refining facilities that are operated by persons in the same taxpayer group and that are located in the same or adjacent counties may be treated as one qualified distribution center. 20603
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(4) "Qualifying year" means the calendar year to which the qualifying certificate applies. 20607
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(5) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year. 20609
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(6) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual application with the commissioner under division (B) of this section. 20613
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(7) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period. 20617
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(8) "Refining facility" means one or more buildings located in a county in the Appalachian region of this state as defined by section 107.21 of the Revised Code and utilized for refining or smelting gold, silver, platinum, or palladium to a grade and fineness acceptable for delivery to a registered commodities exchange. 20622
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(9) "Registered commodities exchange" means a board of trade, such as New York mercantile exchange, inc. or commodity exchange, inc., designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 20628
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U.S.C. 1 et seq., as amended. 20632

(10) "Ineligible operator's supplier tax liability" means 20633
an amount equal to the tax liability of all suppliers of a 20634
distribution center had the distribution center not been issued 20635
a qualifying certificate for the qualifying year. Ineligible 20636
operator's supplier tax liability shall not include interest or 20637
penalties. 20638

(B) For purposes of division (B) of this section, 20639
"supplier" excludes any person that is part of the consolidated 20640
elected taxpayer group, if applicable, of the operator of the 20641
qualified distribution center. 20642

(1) An application for a qualifying certificate to be a 20643
qualified distribution center shall be filed, and an annual fee 20644
paid, for each qualified distribution center on or before the 20645
first day of September before the qualifying year or within 20646
forty-five days after the distribution center opens, whichever 20647
is later. The applicant must substantiate to the commissioner's 20648
satisfaction that, for the qualifying period, all persons 20649
operating the distribution center have more than fifty per cent 20650
of the cost of the qualified property shipped to a location such 20651
that it would be situated outside this state under the provisions 20652
of division (E) of section 5751.033 of the Revised Code. The 20653
applicant must also substantiate that the distribution center 20654
cumulatively had costs from its suppliers equal to or exceeding 20655
five hundred million dollars during the qualifying period. 20656

The commissioner may require an applicant to have an 20657
independent certified public accountant certify that the 20658
calculation of the minimum thresholds required for a qualified 20659
distribution center by the operator of a distribution center has 20660
been made in accordance with generally accepted accounting 20661

principles. The commissioner shall issue or deny the issuance of 20662
a certificate within sixty days after the receipt of the 20663
application. A denial is subject to appeal under section 5717.02 20664
of the Revised Code. If the operator files a timely appeal under 20665
section 5717.02 of the Revised Code, the operator shall be 20666
granted a qualifying certificate effective for the remainder of 20667
the qualifying year or until the appeal is finalized, whichever 20668
is earlier. If the operator does not prevail in the appeal, the 20669
operator shall pay the ineligible operator's supplier tax 20670
liability. 20671

(2) If the distribution center is new and was not open for 20672
the entire qualifying period, the operator of the distribution 20673
center may request that the commissioner grant a qualifying 20674
certificate. If the certificate is granted and it is later 20675
determined that more than fifty per cent of the qualified 20676
property during that year was not shipped to a location such 20677
that it would be situated outside of this state under the 20678
provisions of division (E) of section 5751.033 of the Revised 20679
Code or if it is later determined that the person that operates 20680
the distribution center had average monthly costs from its 20681
suppliers of less than forty million dollars during that year, 20682
then the operator of the distribution center shall pay the 20683
ineligible operator's supplier tax liability. 20684

(3) The commissioner may grant a qualifying certificate to 20685
a distribution center that does not qualify as a qualified 20686
distribution center for an entire qualifying period if the 20687
operator of the distribution center demonstrates that the 20688
business operations of the distribution center have changed or 20689
will change such that the distribution center will qualify as a 20690
qualified distribution center within thirty-six months after the 20691
date the operator first applies for a certificate. If, at the 20692

end of that thirty-six-month period, the business operations of 20693
the distribution center have not changed such that the 20694
distribution center qualifies as a qualified distribution 20695
center, the operator of the distribution center shall pay the 20696
ineligible operator's supplier tax liability for each year that 20697
the distribution center received a certificate but did not 20698
qualify as a qualified distribution center. For each year the 20699
distribution center receives a certificate under division (B) (3) 20700
of this section, the distribution center shall pay all 20701
applicable fees required under this section and shall submit an 20702
updated business plan showing the progress the distribution 20703
center made toward qualifying as a qualified distribution center 20704
during the preceding year. 20705

(4) An operator may appeal a determination under division 20706
(B) (1) or (2) of this section that the ineligible operator is 20707
liable for the operator's supplier tax liability as a result of 20708
not qualifying as a qualified distribution center, as provided 20709
in section 5717.02 of the Revised Code. 20710

(C) (1) When filing an application for a qualifying 20711
certificate under division (B) (1) of this section, the operator 20712
of a qualified distribution center also shall provide 20713
documentation, as the commissioner requires, for the 20714
commissioner to ascertain the Ohio delivery percentage. The 20715
commissioner, upon issuing the qualifying certificate, also 20716
shall certify the Ohio delivery percentage. The operator of the 20717
qualified distribution center may appeal the commissioner's 20718
certification of the Ohio delivery percentage in the same manner 20719
as an appeal is taken from the denial of a qualifying 20720
certificate under division (B) (1) of this section. 20721

(2) In the case where the distribution center is new and 20722

not open for the entire qualifying period, the operator shall 20723
make a good faith estimate of an Ohio delivery percentage for 20724
use by suppliers in their reports of taxable gross receipts for 20725
the remainder of the qualifying period. The operator of the 20726
facility shall disclose to the suppliers that such Ohio delivery 20727
percentage is an estimate and is subject to recalculation. By 20728
the due date of the next application for a qualifying 20729
certificate, the operator shall determine the actual Ohio 20730
delivery percentage for the estimated qualifying period and 20731
proceed as provided in division (C) (1) of this section with 20732
respect to the calculation and recalculation of the Ohio 20733
delivery percentage. The supplier is required to file, within 20734
sixty days after receiving notice from the operator of the 20735
qualified distribution center, amended reports for the impacted 20736
calendar quarter or quarters or calendar year, whichever the 20737
case may be. Any additional tax liability or tax overpayment 20738
shall be subject to interest but shall not be subject to the 20739
imposition of any penalty so long as the amended returns are 20740
timely filed. 20741

(3) The operator of a distribution center that receives a 20742
qualifying certificate under division (B) (3) of this section 20743
shall make a good faith estimate of the Ohio delivery percentage 20744
that the operator estimates will apply to the distribution 20745
center at the end of the thirty-six-month period after the 20746
operator first applied for a qualifying certificate under that 20747
division. The result of the estimate shall be multiplied by a 20748
factor of one and seventy-five one-hundredths. The product of 20749
that calculation shall be the Ohio delivery percentage used by 20750
suppliers in their reports of taxable gross receipts for each 20751
qualifying year that the distribution center receives a 20752
qualifying certificate under division (B) (3) of this section, 20753

except that, if the product is less than five per cent, the Ohio 20754
delivery percentage used shall be five per cent and that, if the 20755
product exceeds forty-nine per cent, the Ohio delivery 20756
percentage used shall be forty-nine per cent. 20757

(D) Qualifying certificates and Ohio delivery percentages 20758
issued by the commissioner shall be open to public inspection 20759
and shall be timely published by the commissioner. A supplier 20760
relying in good faith on a certificate issued under this section 20761
shall not be subject to tax on the qualifying distribution 20762
center receipts under this section and division (F) (2) (z) of 20763
section 5751.01 of the Revised Code. An operator receiving a 20764
qualifying certificate is liable for the ineligible operator's 20765
supplier tax liability for each year the operator received a 20766
certificate but did not qualify as a qualified distribution 20767
center. 20768

(E) The tax commissioner shall determine an ineligible 20769
operator's supplier tax liability based on information that the 20770
commissioner may request from the operator of the distribution 20771
center. An operator shall provide a list of all suppliers of the 20772
distribution center and the corresponding costs of qualified 20773
property for the qualifying year at issue within sixty days of a 20774
request by the commissioner under this division. 20775

(F) The annual fee for a qualifying certificate shall be 20776
one hundred thousand dollars for each qualified distribution 20777
center. If a qualifying certificate is not issued, the annual 20778
fee is subject to refund after the exhaustion of all appeals 20779
provided for in division (B) (1) of this section. The first one 20780
hundred thousand dollars of the annual application fees 20781
collected each calendar year shall be credited to the revenue 20782
enhancement fund. The remainder of the annual application fees 20783

collected shall be distributed in the same manner required under 20784
section 5751.20 of the Revised Code. 20785

(G) The tax commissioner may require that adequate 20786
security be posted by the operator of the distribution center on 20787
appeal when the commissioner disagrees that the applicant has 20788
met the minimum thresholds for a qualified distribution center 20789
as set forth in this section. 20790

Sec. 5751.41. (A) As used in this section and division (F) 20791
(2)(gg) of section 5751.01 of the Revised Code: 20792

(1) "Qualified uranium receipts" means receipts from the 20793
sale, exchange, lease, loan, production, processing, or other 20794
disposition of uranium within a uranium enrichment zone 20795
certified by the tax commissioner under division (B) of this 20796
section. "Qualified uranium receipts" does not include any 20797
receipts with a situs in this state outside a uranium enrichment 20798
zone certified by the tax commissioner under that division. 20799

(2) "Uranium enrichment zone" means all real property that 20800
is part of a uranium enrichment facility licensed by the United 20801
States nuclear regulatory commission and that was or is owned or 20802
controlled by the United States department of energy or its 20803
successor. 20804

(B) Any person that owns, leases, or operates real or 20805
tangible personal property constituting or located within a 20806
uranium enrichment zone may apply to the tax commissioner to 20807
have the uranium enrichment zone certified for the purpose of 20808
excluding qualified uranium receipts under this section and 20809
division (F)(2)(gg) of section 5751.01 of the Revised Code. The 20810
application shall include such information that the tax 20811
commissioner prescribes. Within sixty days after receiving the 20812

application, the tax commissioner shall certify the zone for 20813
that purpose if the commissioner determines that the property 20814
qualifies as a uranium enrichment zone, or, if the tax 20815
commissioner determines that the property does not qualify, the 20816
commissioner shall deny the application or request additional 20817
information from the applicant. If the tax commissioner denies 20818
an application, the commissioner shall state the reasons for the 20819
denial. The applicant may appeal the denial of an application to 20820
the board of tax appeals pursuant to section 5717.02 of the 20821
Revised Code. If the applicant files a timely appeal, the tax 20822
commissioner shall conditionally certify the applicant's 20823
property. The conditional certification shall expire when all of 20824
the applicant's appeals are exhausted. Until final resolution of 20825
the appeal, the applicant shall retain the applicant's records 20826
in accordance with section 5751.12 of the Revised Code, 20827
notwithstanding any time limit on the preservation of records 20828
under that section. 20829

Sec. 5751.42. (A) As used in this section and division (F) 20830
(2)(jj) of section 5751.01 of the Revised Code: 20831

(1) "Qualifying integrated supply chain receipts" means 20832
receipts of a qualified integrated supply chain vendor from the 20833
sale of qualified property delivered to, or integrated supply 20834
chain services provided to, another qualified integrated supply 20835
chain vendor or to a retailer that is a member of the integrated 20836
supply chain. "Qualifying integrated supply chain receipts" does 20837
not include receipts of a person that is not a qualified 20838
integrated supply chain vendor from the sale of raw materials to 20839
a member of an integrated supply chain, or receipts of a member 20840
of an integrated supply chain from the sale of qualified 20841
property or integrated supply chain services to a person that is 20842
not a member of the integrated supply chain. 20843

- (2) "Qualified property" means any of the following: 20844
- (a) Component parts used to hold, contain, package, or 20845
dispense qualified products, excluding equipment. 20846
- (b) Work-in-process inventory that will become, comprise, 20847
or form a component part of a qualified product capable of being 20848
sold at retail, excluding equipment, machinery, furniture, and 20849
fixtures. 20850
- (c) Finished goods inventory that is a qualified product 20851
capable of being sold at retail in the inventory's present form. 20852
- (3) "Qualified integrated supply chain vendor" means a 20853
person that is a member of an integrated supply chain and that 20854
provides integrated supply chain services within a qualified 20855
integrated supply chain district to a retailer that is a member 20856
of the integrated supply chain or to another qualified 20857
integrated supply chain vendor that is located within the same 20858
such district as the person but does not share a common owner 20859
with that person. 20860
- (4) "Qualified product" means a personal care, health, or 20861
beauty product or an aromatic product, including a candle. 20862
"Qualified product" does not include a drug that may be 20863
dispensed only pursuant to a prescription, durable medical 20864
equipment, mobility enhancing equipment, or a prosthetic device, 20865
as those terms are defined in section 5739.01 of the Revised 20866
Code. 20867
- (5) "Integrated supply chain" means two or more qualified 20868
integrated supply chain vendors certified on the most recent 20869
list certified to the tax commissioner under division (B) of 20870
this section that systematically collaborate and coordinate 20871
business operations with a retailer on the flow of tangible 20872

personal property from material sourcing through manufacturing, 20873
assembly, packaging, and delivery to the retailer to improve 20874
long-term financial performance of each vendor and the supply 20875
chain that includes the retailer. 20876

(6) "Integrated supply chain services" means procuring raw 20877
materials or manufacturing, processing, refining, assembling, 20878
packaging, or repackaging tangible personal property that will 20879
become finished goods inventory capable of being sold at retail 20880
by a retailer that is a member of an integrated supply chain. 20881

(7) "Retailer" means a person primarily engaged in making 20882
retail sales and any member of that person's consolidated 20883
elected taxpayer group or combined taxpayer group, whether or 20884
not that member is primarily engaged in making retail sales. 20885

(8) "Qualified integrated supply chain district" means the 20886
parcel or parcels of land from which a retailer's integrated 20887
supply chain that existed on September 29, 2015, provides or 20888
receives integrated supply chain services, and to which all of 20889
the following apply: 20890

(a) The parcel or parcels are located wholly in a county 20891
having a population of greater than one hundred sixty-five 20892
thousand but less than one hundred seventy thousand based on the 20893
2010 federal decennial census. 20894

(b) The parcel or parcels are located wholly in the 20895
corporate limits of a municipal corporation with a population 20896
greater than seven thousand five hundred and less than eight 20897
thousand based on the 2010 federal decennial census that is 20898
partly located in the county described in division (A) (8) (a) of 20899
this section, as those corporate limits existed on September 29, 20900
2015. 20901

(c) The aggregate acreage of the parcel or parcels equals 20902
or exceeds one hundred acres. 20903

(B) For the purpose of the certification under division 20904
(A) (5) of this section, the reporting person for each retailer, 20905
on or before the first day of October of each year, shall 20906
certify to the tax commissioner a list of the qualified 20907
integrated supply chain vendors providing or receiving 20908
integrated supply chain services within a qualified integrated 20909
supply chain district for the ensuing calendar year. On or 20910
before the following first day of November, the commissioner 20911
shall issue a certificate to the retailer and to each vendor 20912
certified to the commissioner on that list. The certificate 20913
shall include the names of the retailer and of the qualified 20914
integrated supply chain vendors. 20915

The retailer shall notify the commissioner of any changes 20916
to the list, including additions to or subtractions from the 20917
list or changes in the name or legal entity of vendors certified 20918
on the list, within sixty days after the date the retailer 20919
becomes aware of the change. Within thirty days after receiving 20920
that notification, the commissioner shall issue a revised 20921
certificate to the retailer and to each vendor certified on the 20922
list. The revised certificate shall include the effective date 20923
of the change. 20924

Each recipient of a certificate issued pursuant to this 20925
division shall maintain a copy of the certificate for four years 20926
from the date the certificate was received. 20927

Sec. 5751.50. (A) For tax periods beginning on or after 20928
January 1, 2008, a refundable credit granted by the tax credit 20929
authority under section 122.17 or former division (B) (2) or (3) 20930
of section 122.171 of the Revised Code, as those divisions 20931

existed before September 29, 2015, the effective date of the 20932
amendment of this section by H.B. 64 of the 131st general 20933
assembly, may be claimed under this chapter in the order 20934
required under section 5751.98 of the Revised Code. For purposes 20935
of making tax payments under this chapter, taxes equal to the 20936
amount of the refundable credit shall be considered to be paid 20937
to this state on the first day of the tax period. A credit 20938
claimed in calendar year 2008 may not be applied against the tax 20939
otherwise due for a tax period beginning before July 1, 2008. 20940
The refundable credit shall not be claimed against the tax 20941
otherwise due for any tax period beginning after the date on 20942
which a relocation of employment positions occurs in violation 20943
of an agreement entered into under section 122.17 or 122.171 of 20944
the Revised Code. 20945

(B) For tax periods beginning on or after January 1, 2008, 20946
a nonrefundable credit granted by the tax credit authority under 20947
division (B) of section 122.171 of the Revised Code may be 20948
claimed under this chapter in the order required under section 20949
5751.98 of the Revised Code. A credit claimed in calendar year 20950
2008 may not be applied against the tax otherwise due under this 20951
chapter for a tax period beginning before July 1, 2008. The 20952
credit shall not be claimed against the tax otherwise due for 20953
any tax period beginning after the date on which a relocation of 20954
employment positions occurs in violation of an agreement entered 20955
into under section 122.17 or 122.171 of the Revised Code. No 20956
credit shall be allowed under this chapter if the credit was 20957
available against the tax imposed by section 5733.06 or 5747.02 20958
of the Revised Code, except to the extent the credit was not 20959
applied against such tax. 20960

Sec. 5751.51. (A) As used in this section, "qualified 20961
research expenses" has the same meaning as in section 41 of the 20962

Internal Revenue Code. 20963

(B) (1) For ~~tax periods~~ calendar years beginning on or 20964
after January 1, 2008, a nonrefundable credit may be claimed 20965
under this chapter equal to seven per cent of the excess of (a) 20966
qualified research expenses incurred in this state by the 20967
taxpayer in the ~~tax period~~ calendar year for which the credit is 20968
claimed over (b) the taxpayer's average annual qualified 20969
research expenses incurred in this state for the three preceding 20970
~~tax periods~~ calendar years. 20971

(2) The taxpayer shall claim the credit allowed under 20972
division (B) (1) of this section in the order required by section 20973
5751.98 of the Revised Code. A credit claimed in ~~tax~~ calendar 20974
year 2008 may not be applied against the tax otherwise due under 20975
this chapter for a tax period beginning before July 1, 2008. Any 20976
credit amount in excess of the tax due under section 5751.03 of 20977
the Revised Code, after allowing for any other credits that 20978
precede the credit under this section in the order required 20979
under that section, may be carried forward for seven ~~tax~~ years, 20980
but the amount of the excess credit claimed against the tax for 20981
any tax period shall be deducted from the balance carried 20982
forward to the next tax period. 20983

(3) No credit shall be allowed under this chapter if the 20984
credit was available against the tax imposed by section 5733.06 20985
of the Revised Code, except to the extent the credit was not 20986
applied against such tax. 20987

Sec. 5753.11. (A) As used in this section: 20988

(1) "Public school district" means any city, local, 20989
exempted village, or joint vocational school district, community 20990
school established under Chapter 3314. of the Revised Code, STEM 20991

school established under Chapter 3326. of the Revised Code, or 20992
college-preparatory boarding school established under Chapter 20993
3328. of the Revised Code. "Public school district" does not 20994
include any STEM school operated under section 3326.51 of the 20995
Revised Code. 20996

(2) "Student population" means the number of students 20997
residing in a county who are enrolled in a public school 20998
district in grades kindergarten through twelve and the total 20999
number of preschool children with disabilities on the following 21000
dates: 21001

(a) For the January distribution, the Friday of the first 21002
full school week in October; 21003

(b) For the August distribution, the Friday of the first 21004
full school week in May. 21005

(B) For the purpose of calculating student population, 21006
each public school district shall, twice annually, report to the 21007
department of education the students enrolled in the district on 21008
the days specified in division (A) (2) of this section. A student 21009
shall be considered to be enrolled in a public school district 21010
if the student is participating in education programs of the 21011
public school district and the public school district has not: 21012

(1) Received documentation from a parent terminating 21013
enrollment of the student; 21014

(2) Been provided documentation of a student's enrollment 21015
in another public or private school; or 21016

(3) Ceased to offer education to the student. 21017

If more than one public school district reports a student 21018
as enrolled, the department shall use procedures adopted by the 21019

department for the reconciliation of enrollment to determine the 21020
district of enrollment for purposes of this section. In the case 21021
of the dual enrollment of a student in a joint vocational school 21022
district and another public school district, the student shall 21023
be included in the enrollments for both schools. If the valid 21024
school district or enrollment cannot be determined in time for 21025
the certification, the count of these students shall be divided 21026
equally between the reporting districts. 21027

(C) The department of education shall certify to the 21028
department of taxation the student population for each county 21029
and the student population for each public school district 21030
located in whole or in part in the county on or before the 21031
thirtieth day of December, for the January distribution and on 21032
or before the thirtieth day of July, for the August 21033
distribution. A student shall be included in the school district 21034
enrollment for a county only if a student resides in that 21035
county. The location of each community school shall be the 21036
enrollment area required to be defined by the community school 21037
and its sponsor in accordance with division (A)(19) of section 21038
3314.03 of the Revised Code, the location of each STEM ~~schools~~ 21039
school shall be any county in which its enrolled students 21040
reside, and the location of the college-preparatory boarding 21041
schools shall be the territory of the school district in which 21042
the college-preparatory school is located or the territory of 21043
any city, exempted village, or local school district that has 21044
agreed to be a participating district under section 3328.04 of 21045
the Revised Code. 21046

The student population count certified by the department 21047
of education to the department of taxation is final and shall 21048
not be adjusted by future updates to the counts. 21049

(D) Not later than the thirty-first day of January and the
thirty-first day of August of each year, the tax commissioner
shall distribute funds in the gross casino revenue county
student fund to public school districts. The commissioner shall
calculate the amount of funds to distribute to each public
school district as follows:

(1) The commissioner shall calculate the proportional
share of the funds attributable to each county by dividing the
total student population certified for each county by the sum of
the total student population certified in all counties
statewide.

(2) The commissioner shall multiply the amount in division
(D) (1) of this section by the total amount of funds in the gross
casino revenue county student fund to obtain the share of funds
for each county.

(3) The commissioner shall multiply the amount in division
(D) (2) of this section by the quotient of the student population
certified for each individual district located in the county
divided by the sum of the student population certified for all
public school districts located in the county.

The commissioner shall distribute to each public school
district the amount so calculated for each district.

Section 2. That existing sections 122.075, 125.831,
131.45, 133.01, 133.06, 133.07, 133.18, 135.142, 305.31,
306.322, 307.671, 307.672, 307.674, 307.678, 307.695, 319.301,
321.03, 321.20, 323.154, 351.01, 351.03, 351.141, 718.01,
718.021, 929.01, 1545.041, 1545.21, 1711.15, 1711.16, 3316.03,
3316.06, 3317.01, 4301.20, 4582.024, 4582.26, 4582.56, 5701.08,
5701.12, 5703.04, 5703.21, 5703.211, 5703.54, 5703.94, 5703.95,

5705.03, 5705.13, 5705.19, 5705.195, 5705.213, 5705.252, 21079
5705.29, 5705.315, 5705.34, 5705.35, 5705.36, 5705.49, 5709.201, 21080
5709.40, 5709.43, 5709.48, 5709.53, 5709.61, 5709.80, 5709.85, 21081
5709.93, 5713.03, 5713.30, 5713.351, 5715.13, 5715.36, 5721.06, 21082
5721.191, 5721.39, 5725.98, 5726.04, 5726.50, 5727.02, 5727.11, 21083
5727.23, 5727.32, 5727.33, 5727.80, 5727.83, 5727.84, 5729.98, 21084
5733.042, 5733.05, 5733.052, 5733.055, 5733.40, 5733.98, 21085
5735.026, 5735.06, 5739.01, 5739.011, 5739.02, 5739.021, 21086
5739.028, 5739.03, 5739.034, 5739.05, 5739.08, 5739.09, 5739.21, 21087
5740.02, 5741.01, 5743.05, 5743.08, 5743.33, 5743.62, 5743.65, 21088
5745.14, 5747.01, 5747.011, 5747.012, 5747.013, 5747.02, 21089
5747.058, 5747.061, 5747.07, 5747.082, 5747.11, 5747.231, 21090
5747.41, 5747.51, 5747.52, 5747.55, 5747.98, 5748.01, 5748.08, 21091
5748.09, 5751.01, 5751.08, 5751.09, 5751.50, 5751.51, and 21092
5753.11 of the Revised Code are hereby repealed. 21093

Section 3. That sections 901.13, 5705.211, 5727.87, 21094
5733.46, 5739.105, 5747.75, and 5751.23 of the Revised Code are 21095
hereby repealed. 21096

Section 4. This act shall be known as the "Tax Code 21097
Streamlining and Correction Act." 21098

Section 5. The General Assembly, applying the principle 21099
stated in division (B) of section 1.52 of the Revised Code that 21100
amendments are to be harmonized if reasonably capable of 21101
simultaneous operation, finds that the following sections, 21102
presented in this act as composites of the sections as amended 21103
by the acts indicated, are the resulting versions of the 21104
sections in effect prior to the effective date of the sections 21105
as presented in this act: 21106

Section 133.18 of the Revised Code as amended by Am. Sub. 21107
H.B. 48 of the 128th General Assembly and Am. Sub. H.B. 153 of 21108

the 129th General Assembly.	21109
Section 718.01 of the Revised Code as amended by both Am.	21110
Sub. H.B. 49 and Sub. H.B. 133 of the 132nd General Assembly.	21111
Section 5705.19 of the Revised Code as amended by both	21112
Sub. H.B. 122 and Sub. H.B. 500 of the 132nd General Assembly.	21113
Section 5709.40 of the Revised Code as amended by both Am.	21114
Sub. S.B. 257 of the 131st General Assembly and Sub. H.B. 69 of	21115
the 132nd General Assembly.	21116
Section 5713.30 of the Revised Code as amended by both	21117
Sub. H.B. 523 and Sub. S.B. 75 of the 131st General Assembly.	21118
Section 5747.51 of the Revised Code as amended by both	21119
Sub. H.B. 166 and Sub. H.B. 390 of the 131st General Assembly.	21120