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Sub. H. B. No. 197

Representatives Powell, Merrin

Cosponsors: Representatives Rogers, Green, Hoops, Scherer, Carruthers, Cross, Dean, DeVitis, Galonski, Ghanbari, Ginter, Greenspan, Grendell, Hambley, Lanese, Lang, McClain, Perales, Reineke, Riedel, Roemer, Romanchuk, Seitz, Stein, Stephens, Swearingen, Vitale, Wiggam

Senators Roegner, Hackett, Schaffer, Schuring

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
307.695, 319.301, 321.03, 321.20, 323.154, 4
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5739.011, 5739.02, 5739.021, 5739.028, 5739.03, 20

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5747.058, 5747.061, 5747.07, 5747.082, 5747.11, 24
5747.231, 5747.41, 5747.51, 5747.52, 5747.55, 25
5747.98, 5748.08, 5748.09, 5751.01, 5751.08, 26
5751.09, 5751.50, 5751.51, 5751.98, and 5753.11; 27
to enact sections 5739.091, 5739.092, 5751.40, 28
5751.41, and 5751.42; and to repeal sections 29
901.13, 5705.211, 5727.87, 5733.46, 5739.105, 30
5747.75, and 5751.23 of the Revised Code and to 31
amend Section 757.40 of H.B. 166 of the 133rd 32
General Assembly to enact the "Tax Code 33
Streamlining and Correction Act" to make 34
technical and corrective changes to the laws 35
governing taxation and to declare an emergency. 36

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

Section 1. That sections 122.075, 125.831, 131.45, 133.01, 37
133.06, 133.07, 133.18, 135.142, 305.31, 306.322, 307.671, 38
307.672, 307.674, 307.678, 307.695, 319.301, 321.03, 321.20, 39
323.154, 323.155, 351.01, 351.03, 351.141, 718.01, 718.021, 40
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5725.98, 5726.50, 5726.98, 5727.02, 5727.11, 5727.23, 5727.32, 48
5727.33, 5727.80, 5727.83, 5727.84, 5729.98, 5733.042, 5733.05, 49
5733.052, 5733.055, 5733.40, 5733.98, 5735.026, 5735.06, 50
5739.01, 5739.011, 5739.02, 5739.021, 5739.028, 5739.03, 51
5739.034, 5739.08, 5739.09, 5739.21, 5740.02, 5743.05, 5743.08, 52
5743.33, 5743.65, 5745.14, 5747.01, 5747.011, 5747.012, 53
5747.013, 5747.02, 5747.058, 5747.061, 5747.07, 5747.082, 54
5747.11, 5747.231, 5747.41, 5747.51, 5747.52, 5747.55, 5747.98, 55
5748.08, 5748.09, 5751.01, 5751.08, 5751.09, 5751.50, 5751.51, 56
5751.98, and 5753.11 be amended and sections 5739.091, 5739.092, 57
5751.40, 5751.41, and 5751.42 of the Revised Code be enacted to 58
read as follows: 59

Sec. 122.075. (A) As used in this section: 60

(1) "Alternative fuel" has the same meaning as in section 61
125.831 of the Revised Code. 62

(2) "Biodiesel" means a mono-alkyl ester combustible 63
liquid fuel that is derived from vegetable oils or animal fats, 64
or any combination of those reagents, and that meets American 65
society for testing and materials specification D6751-03a for 66
biodiesel fuel (B100) blend stock distillate fuels. 67

(3) "Diesel fuel" and "gasoline" have the same meanings as 68
in section 5735.01 of the Revised Code. 69

(4) "Ethanol" ~~has the same meaning as in section 5733.46~~ 70
of the Revised Code means fermentation ethyl alcohol derived from 71
agricultural products, including potatoes, cereal, grains, 72
cheese whey, and sugar beets; forest products; or other 73
renewable resources, including residue and waste generated from 74
the production, processing, and marketing of agricultural 75
products, forest products, and other renewable resources that 76

meet all of the specifications in the American society for 77
testing and materials (ASTM) specification D 4806-88 and is 78
denatured as specified in Parts 20 and 21 of Title 27 of the 79
Code of Federal Regulations. 80

(5) "Blended biodiesel" means diesel fuel containing at 81
least twenty per cent biodiesel by volume. 82

(6) "Blended gasoline" means gasoline containing at least 83
eighty-five per cent ethanol by volume. 84

(7) "Incremental cost" means either of the following: 85

(a) The difference in cost between blended gasoline and 86
gasoline containing ten per cent or less ethanol at the time 87
that the blended gasoline is purchased; 88

(b) The difference in cost between blended biodiesel and 89
diesel fuel containing two per cent or less biodiesel at the 90
time that the blended biodiesel is purchased. 91

(B) For the purpose of improving the air quality in this 92
state, the director of development services shall establish an 93
alternative fuel transportation program under which the director 94
may make grants and loans to businesses, nonprofit 95
organizations, public school systems, or local governments for 96
the purchase and installation of alternative fuel refueling or 97
distribution facilities and terminals, for the purchase and use 98
of alternative fuel, to pay the cost of fleet conversion, and to 99
pay the costs of educational and promotional materials and 100
activities intended for prospective alternative fuel consumers, 101
fuel marketers, and others in order to increase the availability 102
and use of alternative fuel. 103

(C) The director, in consultation with the director of 104
agriculture, shall adopt rules in accordance with Chapter 119. 105

of the Revised Code that are necessary for the administration of 106
the alternative fuel transportation program. The rules shall 107
establish at least all of the following: 108

(1) An application form and procedures governing the 109
application process for receiving funds under the program; 110

(2) A procedure for prioritizing the award of grants and 111
loans under the program. The procedures shall give preference to 112
all of the following: 113

(a) Publicly accessible refueling facilities; 114

(b) Entities applying to the program that have secured 115
funding from other sources, including, but not limited to, 116
private or federal incentives; 117

(c) Entities that have presented compelling evidence of 118
demand in the market in which the facilities or terminals will 119
be located; 120

(d) Entities that have committed to utilizing purchased or 121
installed facilities or terminals for the greatest number of 122
years; 123

(e) Entities that will be purchasing or installing 124
facilities or terminals for any type of alternative fuel. 125

(3) A requirement that the maximum incentive for the 126
purchase and installation of an alternative fuel refueling or 127
distribution facility or terminal be eighty per cent of the cost 128
of the facility or terminal, except that at least twenty per 129
cent of the total cost of the facility or terminal shall be 130
incurred by the recipient and not compensated for by any other 131
source; 132

(4) A requirement that the maximum incentive for the 133

purchase of alternative fuel be eighty per cent of the cost of 134
the fuel or, in the case of blended biodiesel or blended 135
gasoline, eighty per cent of the incremental cost of the blended 136
biodiesel or blended gasoline; 137

(5) Any other criteria, procedures, or guidelines that the 138
director determines are necessary to administer the program, 139
including fees, charges, interest rates, and payment schedules. 140

(D) An applicant for a grant or loan under this section 141
that sells motor vehicle fuel at retail shall agree that if the 142
applicant receives funding, the applicant will report to the 143
director the gallon or gallon equivalent amounts of alternative 144
fuel the applicant sells at retail in this state for a period of 145
three years after the project is completed. 146

The director shall enter into a written confidentiality 147
agreement with the applicant regarding the gallon or gallon 148
equivalent amounts sold as described in this division, and upon 149
execution of the agreement this information is not a public 150
record. 151

(E) There is hereby created in the state treasury the 152
alternative fuel transportation fund. The fund shall consist of 153
money transferred to the fund under division (B) of section 154
125.836 of the Revised Code, money that is appropriated to it by 155
the general assembly, money as may be specified by the general 156
assembly from the advanced energy fund created by section 157
4928.61 of the Revised Code, and all money received from the 158
repayment of loans made from the fund or in the event of a 159
default on any such loan. Money in the fund shall be used to 160
make grants and loans under the alternative fuel transportation 161
program and by the director in the administration of that 162
program. 163

Sec. 125.831. As used in sections 125.831 to 125.834 of	164
the Revised Code:	165
(A) "Alternative fuel" means any of the following fuels	166
used in a motor vehicle:	167
(1) E85 blend fuel;	168
(2) Blended biodiesel;	169
(3) Natural gas;	170
(4) Liquefied petroleum gas;	171
(5) Hydrogen;	172
(6) Compressed air;	173
(7) Any power source, including electricity;	174
(8) Any fuel not described in divisions (A) (1) to (7) of	175
this section that the United States department of energy	176
determines, by final rule, to be substantially not petroleum,	177
and that would yield substantial energy security and	178
environmental benefits.	179
(B) "Biodiesel" means a mono-alkyl ester combustible	180
liquid fuel that is derived from vegetable oils or animal fats,	181
or any combination of those reagents that meets the American	182
society for testing and materials specification for biodiesel	183
fuel (B100) blend stock distillate fuels and any other standards	184
that the director of administrative services adopts by rule.	185
(C) "Blended biodiesel" means a blend of biodiesel with	186
petroleum based diesel fuel in which the resultant product	187
contains not less than twenty per cent biodiesel that meets the	188
American society for testing and materials specification for	189
blended diesel fuel and any other standards that the director of	190

administrative services adopts by rule.	191
(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.	192 193 194
(E) "E85 blend fuel" means fuel containing eighty-five per cent or more ethanol as defined in section 5733.46 <u>122.075</u> 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.	195 196 197 198 199 200 201 202 203 204
(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.	205 206 207 208 209 210 211
(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.	212 213 214
(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	215 216 217 218 219

specialized equipment that is not normally found in such a 220
vehicle and that is used to carry out a state agency's specific 221
and specialized duties and responsibilities. 222

(H) "Specialized equipment" does not include standard 223
mobile radios with no capabilities other than voice 224
communication, exterior and interior lights, or roof-mounted 225
caution lights. 226

(I) "State agency" means every organized body, office, 227
board, authority, commission, or agency established by the laws 228
of the state for the exercise of any governmental or quasi- 229
governmental function of state government regardless of the 230
funding source for that entity, other than any state institution 231
of higher education, the office of the governor, lieutenant 232
governor, auditor of state, treasurer of state, secretary of 233
state, or attorney general, the general assembly or any 234
legislative agency, the courts or any judicial agency, or any 235
state retirement system or retirement program established by or 236
referenced in the Revised Code. 237

(J) "State institution of higher education" has the same 238
meaning as in section 3345.011 of the Revised Code. 239

Sec. 131.45. (A) The amount the general assembly 240
appropriates from the general revenue fund each year per pupil 241
for primary and secondary educational purposes shall be not less 242
than the amount it appropriated per pupil for those purposes for 243
the base year, adjusted for changes in prices as measured by the 244
consumer price index (all urban consumers, all items) prepared 245
by the bureau of labor statistics of the United States 246
department of labor. The base year is fiscal year 1999. 247

(B) Appropriations of the ~~proceeds of the sales and use~~ 248

~~tax levied by sections 5739.029 and 5741.024 of the Revised Code~~ 249
~~and of the net proceeds of any state lottery under Section 6 of~~ 250
Article XV of the Ohio Constitution shall be in addition to 251
appropriations made pursuant to this section. 252

(C) For the purposes of this section, appropriations for 253
primary and secondary educational purposes includes amounts 254
appropriated to reimburse school districts for property tax 255
reductions required by law. 256

Sec. 133.01. As used in this chapter, in sections 9.95, 257
9.96, and 2151.655 of the Revised Code, in other sections of the 258
Revised Code that make reference to this chapter unless the 259
context does not permit, and in related proceedings, unless 260
otherwise expressly provided: 261

(A) "Acquisition" as applied to real or personal property 262
includes, among other forms of acquisition, acquisition by 263
exercise of a purchase option, and acquisition of interests in 264
property, including, without limitation, easements and rights- 265
of-way, and leasehold and other lease interests initially 266
extending or extendable for a period of at least sixty months. 267

(B) "Anticipatory securities" means securities, including 268
notes, issued in anticipation of the issuance of other 269
securities. 270

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

subdivision.	278
(D) "Bond retirement fund" means the bond retirement fund	279
provided for in section 5705.09 of the Revised Code, and also	280
means a sinking fund or any other special fund, regardless of	281
the name applied to it, established by or pursuant to law or the	282
proceedings for the payment of debt charges. Provision may be	283
made in the applicable proceedings for the establishment in a	284
bond retirement fund of separate accounts relating to debt	285
charges on particular securities, or on securities payable from	286
the same or common sources, and for the application of moneys in	287
those accounts only to specified debt charges on specified	288
securities or categories of securities. Subject to law and any	289
provisions in the applicable proceedings, moneys in a bond	290
retirement fund or separate account in a bond retirement fund	291
may be transferred to other funds and accounts.	292
(E) "Capitalized interest" means all or a portion of the	293
interest payable on securities from their date to a date stated	294
or provided for in the applicable legislation, which interest is	295
to be paid from the proceeds of the securities.	296
(F) "Chapter 133. securities" means securities authorized	297
by or issued pursuant to or in accordance with this chapter.	298
(G) "County auditor" means the county auditor of the	299
county in which the subdivision is located. If the subdivision	300
is located in more than one county, "county auditor" means the	301
county auditor of the county that contains the highest amount of	302
the tax valuation of the subdivision or that otherwise has	303
jurisdiction in practice over and customarily handles property	304
tax matters relating to the subdivision. In the case of a county	305
that has adopted a charter, "county auditor" means the officer	306
who generally has the duties and functions provided in the	307

Revised Code for a county auditor.	308
(H) "Credit enhancement facilities" means letters of	309
credit, lines of credit, stand-by, contingent, or firm	310
securities purchase agreements, insurance, or surety	311
arrangements, guarantees, and other arrangements that provide	312
for direct or contingent payment of debt charges, for security	313
or additional security in the event of nonpayment or default in	314
respect of securities, or for making payment of debt charges to	315
and at the option and on demand of securities holders or at the	316
option of the issuer or upon certain conditions occurring under	317
put or similar arrangements, or for otherwise supporting the	318
credit or liquidity of the securities, and includes credit,	319
reimbursement, marketing, remarketing, indexing, carrying,	320
interest rate hedge, and subrogation agreements, and other	321
agreements and arrangements for payment and reimbursement of the	322
person providing the credit enhancement facility and the	323
security for that payment and reimbursement.	324
(I) "Current operating expenses" or "current expenses"	325
means the lawful expenditures of a subdivision, except those for	326
permanent improvements and for payments of debt charges of the	327
subdivision.	328
(J) "Debt charges" means the principal, including any	329
mandatory sinking fund deposits and mandatory redemption	330
payments, interest, and any redemption premium, payable on	331
securities as those payments come due and are payable. The use	332
of "debt charges" for this purpose does not imply that any	333
particular securities constitute debt within the meaning of the	334
Ohio Constitution or other laws.	335
(K) "Financing costs" means all costs and expenses	336
relating to the authorization, including any required election,	337

issuance, sale, delivery, authentication, deposit, custody, 338
clearing, registration, transfer, exchange, fractionalization, 339
replacement, payment, and servicing of securities, including, 340
without limitation, costs and expenses for or relating to 341
publication and printing, postage, delivery, preliminary and 342
final official statements, offering circulars, and informational 343
statements, travel and transportation, underwriters, placement 344
agents, investment bankers, paying agents, registrars, 345
authenticating agents, remarketing agents, custodians, clearing 346
agencies or corporations, securities depositories, financial 347
advisory services, certifications, audits, federal or state 348
regulatory agencies, accounting and computation services, legal 349
services and obtaining approving legal opinions and other legal 350
opinions, credit ratings, redemption premiums, and credit 351
enhancement facilities. Financing costs may be paid from any 352
moneys available for the purpose, including, unless otherwise 353
provided in the proceedings, from the proceeds of the securities 354
to which they relate and, as to future financing costs, from the 355
same sources from which debt charges on the securities are paid 356
and as though debt charges. 357

(L) "Fiscal officer" means the following, or, in the case 358
of absence or vacancy in the office, a deputy or assistant 359
authorized by law or charter to act in the place of the named 360
officer, or if there is no such authorization then the deputy or 361
assistant authorized by legislation to act in the place of the 362
named officer for purposes of this chapter, in the case of the 363
following subdivisions: 364

(1) A county, the county auditor; 365

(2) A municipal corporation, the city auditor or village 366
clerk or clerk-treasurer, or the officer who, by virtue of a 367

charter, has the duties and functions provided in the Revised	368
Code for the city auditor or village clerk or clerk-treasurer;	369
(3) A school district, the treasurer of the board of	370
education;	371
(4) A regional water and sewer district, the secretary of	372
the board of trustees;	373
(5) A joint township hospital district, the treasurer of	374
the district;	375
(6) A joint ambulance district, the clerk of the board of	376
trustees;	377
(7) A joint recreation district, the person designated	378
pursuant to section 755.15 of the Revised Code;	379
(8) A detention facility district or a district organized	380
under section 2151.65 of the Revised Code or a combined district	381
organized under sections 2152.41 and 2151.65 of the Revised	382
Code, the county auditor of the county designated by law to act	383
as the auditor of the district;	384
(9) A township, a fire district organized under division	385
(C) of section 505.37 of the Revised Code, or a township police	386
district, the fiscal officer of the township;	387
(10) A joint fire district, the clerk of the board of	388
trustees of that district;	389
(11) A regional or county library district, the person	390
responsible for the financial affairs of that district;	391
(12) A joint solid waste management district, the fiscal	392
officer appointed by the board of directors of the district	393
under section 343.01 of the Revised Code;	394

(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;	395 396 397
(14) A fire and ambulance district, the person appointed as fiscal officer under division (B) of section 505.375 of the Revised Code;	398 399 400
(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;	401 402 403
(16) A joint police district, the treasurer of the district;	404 405
(17) A lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code;	406 407
(18) A regional transportation improvement project, the county auditor designated under section 5595.10 of the Revised Code.	408 409 410
(M) "Fiscal year" has the same meaning as in section 9.34 of the Revised Code.	411 412
(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.	413 414 415 416 417 418 419
(O) "Fully registered securities" means securities in certificated or uncertificated form, registered as to both principal and interest in the name of the owner.	420 421 422

(P) "Fund" means to provide for the payment of debt 423
charges and expenses related to that payment at or prior to 424
retirement by purchase, call for redemption, payment at 425
maturity, or otherwise. 426

(Q) "General obligation" means securities to the payment 427
of debt charges on which the full faith and credit and the 428
general property taxing power, including taxes within the tax 429
limitation if available to the subdivision, of the subdivision 430
are pledged. 431

(R) "Interest" or "interest equivalent" means those 432
payments or portions of payments, however denominated, that 433
constitute or represent consideration for forbearing the 434
collection of money, or for deferring the receipt of payment of 435
money to a future time. 436

(S) "Internal Revenue Code" means the "Internal Revenue 437
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as 438
amended, and includes any laws of the United States providing 439
for application of that code. 440

(T) "Issuer" means any public issuer and any nonprofit 441
corporation authorized to issue securities for or on behalf of 442
any public issuer. 443

(U) "Legislation" means an ordinance or resolution passed 444
by a majority affirmative vote of the then members of the taxing 445
authority unless a different vote is required by charter 446
provisions governing the passage of the particular legislation 447
by the taxing authority. 448

(V) "Mandatory sinking fund redemption requirements" means 449
amounts required by proceedings to be deposited in a bond 450
retirement fund for the purpose of paying in any year or fiscal 451

year by mandatory redemption prior to stated maturity the 452
principal of securities that is due and payable, except for 453
mandatory prior redemption requirements as provided in those 454
proceedings, in a subsequent year or fiscal year. 455

(W) "Mandatory sinking fund requirements" means amounts 456
required by proceedings to be deposited in a year or fiscal year 457
in a bond retirement fund for the purpose of paying the 458
principal of securities that is due and payable in a subsequent 459
year or fiscal year. 460

(X) "Net indebtedness" has the same meaning as in division 461
(A) of section 133.04 of the Revised Code. 462

(Y) "Obligor," in the case of securities or fractionalized 463
interests in public obligations issued by another person the 464
debt charges or their equivalents on which are payable from 465
payments made by a public issuer, means that public issuer. 466

(Z) "One purpose" relating to permanent improvements means 467
any one permanent improvement or group or category of permanent 468
improvements for the same utility, enterprise, system, or 469
project, development or redevelopment project, or for or devoted 470
to the same general purpose, function, or use or for which self- 471
supporting securities, based on the same or different sources of 472
revenues, may be issued or for which special assessments may be 473
levied by a single ordinance or resolution. "One purpose" 474
includes, but is not limited to, in any case any off-street 475
parking facilities relating to another permanent improvement, 476
and: 477

(1) Any number of roads, highways, streets, bridges, 478
sidewalks, and viaducts; 479

(2) Any number of off-street parking facilities; 480

(3) In the case of a county, any number of permanent 481
improvements for courthouse, jail, county offices, and other 482
county buildings, and related facilities; 483

(4) In the case of a school district, any number of 484
facilities and buildings for school district purposes, and 485
related facilities. 486

(AA) "Outstanding," referring to securities, means 487
securities that have been issued, delivered, and paid for, 488
except any of the following: 489

(1) Securities canceled upon surrender, exchange, or 490
transfer, or upon payment or redemption; 491

(2) Securities in replacement of which or in exchange for 492
which other securities have been issued; 493

(3) Securities for the payment, or redemption or purchase 494
for cancellation prior to maturity, of which sufficient moneys 495
or investments, in accordance with the applicable legislation or 496
other proceedings or any applicable law, by mandatory sinking 497
fund redemption requirements, mandatory sinking fund 498
requirements, or otherwise, have been deposited, and credited 499
for the purpose in a bond retirement fund or with a trustee or 500
paying or escrow agent, whether at or prior to their maturity or 501
redemption, and, in the case of securities to be redeemed prior 502
to their stated maturity, notice of redemption has been given or 503
satisfactory arrangements have been made for giving notice of 504
that redemption, or waiver of that notice by or on behalf of the 505
affected security holders has been filed with the subdivision or 506
its agent for the purpose. 507

(BB) "Paying agent" means the one or more banks, trust 508
companies, or other financial institutions or qualified persons, 509

including an appropriate office or officer of the subdivision, 510
designated as a paying agent or place of payment of debt charges 511
on the particular securities. 512

(CC) "Permanent improvement" or "improvement" means any 513
property, asset, or improvement certified by the fiscal officer, 514
which certification is conclusive, as having an estimated life 515
or period of usefulness of five years or more, and includes, but 516
is not limited to, real estate, buildings, and personal property 517
and interests in real estate, buildings, and personal property, 518
equipment, furnishings, and site improvements, and 519
reconstruction, rehabilitation, renovation, installation, 520
improvement, enlargement, and extension of property, assets, or 521
improvements so certified as having an estimated life or period 522
of usefulness of five years or more. The acquisition of all the 523
stock ownership of a corporation is the acquisition of a 524
permanent improvement to the extent that the value of that stock 525
is represented by permanent improvements. A permanent 526
improvement for parking, highway, road, and street purposes 527
includes resurfacing, but does not include ordinary repair. 528

(DD) "Person" has the same meaning as in section 1.59 of 529
the Revised Code and also includes any federal, state, 530
interstate, regional, or local governmental agency, any 531
subdivision, and any combination of those persons. 532

(EE) "Proceedings" means the legislation, certifications, 533
notices, orders, sale proceedings, trust agreement or indenture, 534
mortgage, lease, lease-purchase agreement, assignment, credit 535
enhancement facility agreements, and other agreements, 536
instruments, and documents, as amended and supplemented, and any 537
election proceedings, authorizing, or providing for the terms 538
and conditions applicable to, or providing for the security or 539

sale or award of, public obligations, and includes the 540
provisions set forth or incorporated in those public obligations 541
and proceedings. 542

(FF) "Public issuer" means any of the following that is 543
authorized by law to issue securities or enter into public 544
obligations: 545

(1) The state, including an agency, commission, officer, 546
institution, board, authority, or other instrumentality of the 547
state; 548

(2) A taxing authority, subdivision, district, or other 549
local public or governmental entity, and any combination or 550
consortium, or public division, district, commission, authority, 551
department, board, officer, or institution, thereof; 552

(3) Any other body corporate and politic, or other public 553
entity. 554

(GG) "Public obligations" means both of the following: 555

(1) Securities; 556

(2) Obligations of a public issuer to make payments under 557
installment sale, lease, lease purchase, or similar agreements, 558
which obligations may bear interest or interest equivalent. 559

(HH) "Refund" means to fund and retire outstanding 560
securities, including advance refunding with or without payment 561
or redemption prior to maturity. 562

(II) "Register" means the books kept and maintained by the 563
registrar for registration, exchange, and transfer of registered 564
securities. 565

(JJ) "Registrar" means the person responsible for keeping 566

the register for the particular registered securities, 567
designated by or pursuant to the proceedings. 568

(KK) "Securities" means bonds, notes, certificates of 569
indebtedness, commercial paper, and other instruments in 570
writing, including, unless the context does not admit, 571
anticipatory securities, issued by an issuer to evidence its 572
obligation to repay money borrowed, or to pay interest, by, or 573
to pay at any future time other money obligations of, the issuer 574
of the securities, but not including public obligations 575
described in division (GG) (2) of this section. 576

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

month history of receipts, the estimate of receipts by the 598
fiscal officer, other than those to be derived under leases and 599
agreements then in effect, shall be confirmed by the taxing 600
authority. 601

(MM) "Subdivision" means any of the following: 602

(1) A county, including a county that has adopted a 603
charter under Article X, Ohio Constitution; 604

(2) A municipal corporation, including a municipal 605
corporation that has adopted a charter under Article XVIII, Ohio 606
Constitution; 607

(3) A school district; 608

(4) A regional water and sewer district organized under 609
Chapter 6119. of the Revised Code; 610

(5) A joint township hospital district organized under 611
section 513.07 of the Revised Code; 612

(6) A joint ambulance district organized under section 613
505.71 of the Revised Code; 614

(7) A joint recreation district organized under division 615
(C) of section 755.14 of the Revised Code; 616

(8) A detention facility district organized under section 617
2152.41, a district organized under section 2151.65, or a 618
combined district organized under sections 2152.41 and 2151.65 619
of the Revised Code; 620

(9) A township police district organized under section 621
505.48 of the Revised Code; 622

(10) A township; 623

(11) A joint fire district organized under section 505.371 624

of the Revised Code;	625
(12) A county library district created under section	626
3375.19 or a regional library district created under section	627
3375.28 of the Revised Code;	628
(13) A joint solid waste management district organized	629
under section 343.01 or 343.012 of the Revised Code;	630
(14) A joint emergency medical services district organized	631
under section 307.052 of the Revised Code;	632
(15) A fire and ambulance district organized under section	633
505.375 of the Revised Code;	634
(16) A fire district organized under division (C) of	635
section 505.37 of the Revised Code;	636
(17) A joint police district organized under section	637
505.482 of the Revised Code;	638
(18) A lake facilities authority created under Chapter	639
353. of the Revised Code;	640
(19) A regional transportation improvement project created	641
under Chapter 5595. of the Revised Code;	642
(20) Any other political subdivision or taxing district or	643
other local public body or agency authorized by this chapter or	644
other laws to issue Chapter 133. securities.	645
(NN) "Taxing authority" means in the case of the following	646
subdivisions:	647
(1) A county, a county library district, or a regional	648
library district, the board or boards of county commissioners,	649
or other legislative authority of a county that has adopted a	650
charter under Article X, Ohio Constitution, but with respect to	651

such a library district acting solely as agent for the board of trustees of that district;	652 653
(2) A municipal corporation, the legislative authority;	654
(3) A school district, the board of education;	655
(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;	656 657 658 659
(5) A joint township hospital district, the joint township hospital board;	660 661
(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;	662 663 664 665 666
(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;	667 668 669
(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;	670 671 672
(9) A subdivision described in division (MM) (19) <u>(20)</u> of this section, the legislative or governing body or official;	673 674
(10) A joint police district, the joint police district board;	675 676
(11) A lake facilities authority, the board of directors;	677
(12) A regional transportation improvement project, the	678

governing board. 679

(OO) "Tax limitation" means the "ten-mill limitation" as 680
defined in section 5705.02 of the Revised Code without 681
diminution by reason of section 5705.313 of the Revised Code or 682
otherwise, or, in the case of a municipal corporation or county 683
with a different charter limitation on property taxes levied to 684
pay debt charges on unvoted securities, that charter limitation. 685
Those limitations shall be respectively referred to as the "ten- 686
mill limitation" and the "charter tax limitation." 687

(PP) "Tax valuation" means the aggregate of the valuations 688
of property subject to ad valorem property taxation by the 689
subdivision on the real property, personal property, and public 690
utility property tax lists and duplicates most recently 691
certified for collection, and shall be calculated without 692
deductions of the valuations of otherwise taxable property 693
exempt in whole or in part from taxation by reason of exemptions 694
of certain amounts of taxable value under division (C) of 695
section 5709.01, tax reductions under section 323.152 of the 696
Revised Code, or similar laws now or in the future in effect. 697

For purposes of section 133.06 of the Revised Code, "tax 698
valuation" shall not include the valuation of tangible personal 699
property used in business, telephone or telegraph property, 700
interexchange telecommunications company property, or personal 701
property owned or leased by a railroad company and used in 702
railroad operations listed under or described in section 703
5711.22, division (B) or (F) of section 5727.111, or section 704
5727.12 of the Revised Code. 705

(QQ) "Year" means the calendar year. 706

(RR) "Administrative agent," "agent," "commercial paper," 707

"floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(SS) "Sales tax supported" means obligations to the payment of debt charges on which an additional sales tax or additional sales taxes have been pledged by the taxing authority of a county pursuant to section 133.081 of the Revised Code.

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

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

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

(C) A school district shall not submit to a vote of the electors the question of the issuance of securities in an amount that will make the district's net indebtedness after the issuance of the securities exceed an amount equal to four per cent of its tax valuation, unless the superintendent of public

instruction, acting under policies adopted by the state board of 737
education, and the tax commissioner, acting under written 738
policies of the commissioner, consent to the submission. A 739
request for the consents shall be made at least one hundred 740
twenty days prior to the election at which the question is to be 741
submitted. 742

The superintendent of public instruction shall certify to 743
the district the superintendent's and the tax commissioner's 744
decisions within thirty days after receipt of the request for 745
consents. 746

If the electors do not approve the issuance of securities 747
at the election for which the superintendent of public 748
instruction and tax commissioner consented to the submission of 749
the question, the school district may submit the same question 750
to the electors on the date that the next special election may 751
be held under section 3501.01 of the Revised Code without 752
submitting a new request for consent. If the school district 753
seeks to submit the same question at any other subsequent 754
election, the district shall first submit a new request for 755
consent in accordance with this division. 756

(D) In calculating the net indebtedness of a school 757
district, none of the following shall be considered: 758

(1) Securities issued to acquire school buses and other 759
equipment used in transporting pupils or issued pursuant to 760
division (D) of section 133.10 of the Revised Code; 761

(2) Securities issued under division (F) of this section, ~~762~~
~~under section 133.301 of the Revised Code,~~ and, to the extent in 763
excess of the limitation stated in division (B) of this section, 764
under division (E) of this section; 765

(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;	766 767 768 769
(4) Loans, evidenced by any securities, received under sections 3313.483, 3317.0210, and 3317.0211 of the Revised Code;	770 771
(5) Debt incurred under section 3313.374 of the Revised Code;	772 773
(6) Debt incurred pursuant to division (B) (5) of section 3313.37 of the Revised Code to acquire computers and related hardware;	774 775 776
(7) Debt incurred under section 3318.042 of the Revised Code;	777 778
(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.	779 780 781
(E) A school district may become a special needs district as to certain securities as provided in division (E) of this section.	782 783 784
(1) A board of education, by resolution, may declare its school district to be a special needs district by determining both of the following:	785 786 787
(a) The student population is not being adequately serviced by the existing permanent improvements of the district.	788 789
(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.	790 791 792 793

(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:	794 795 796
(a) The history of and a projection of the growth of the tax valuation;	797 798
(b) The projected needs;	799
(c) The estimated cost of permanent improvements proposed to meet such projected needs.	800 801
(3) The superintendent of public instruction shall certify the district as an approved special needs district if the superintendent finds both of the following:	802 803 804
(a) The district does not have available sufficient additional funds from state or federal sources to meet the projected needs.	805 806 807
(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.	808 809 810 811 812 813 814 815
(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:	816 817 818 819
(a) Twelve per cent of the sum of its tax valuation plus an amount that is the product of multiplying that tax valuation	820 821

by the percentage by which the tax valuation has increased over 822
the tax valuation on the first day of the sixtieth month 823
preceding the month in which its board determines to submit to 824
the electors the question of issuing the proposed securities; 825

(b) Twelve per cent of the sum of its tax valuation plus 826
an amount that is the product of multiplying that tax valuation 827
by the percentage, determined by the superintendent of public 828
instruction, by which that tax valuation is projected to 829
increase during the next ten years. 830

(F) A school district may issue securities for emergency 831
purposes, in a principal amount that does not exceed an amount 832
equal to three per cent of its tax valuation, as provided in 833
this division. 834

(1) A board of education, by resolution, may declare an 835
emergency if it determines both of the following: 836

(a) School buildings or other necessary school facilities 837
in the district have been wholly or partially destroyed, or 838
condemned by a constituted public authority, or that such 839
buildings or facilities are partially constructed, or so 840
constructed or planned as to require additions and improvements 841
to them before the buildings or facilities are usable for their 842
intended purpose, or that corrections to permanent improvements 843
are necessary to remove or prevent health or safety hazards. 844

(b) Existing fiscal and net indebtedness limitations make 845
adequate replacement, additions, or improvements impossible. 846

(2) Upon the declaration of an emergency, the board of 847
education may, by resolution, submit to the electors of the 848
district pursuant to section 133.18 of the Revised Code the 849
question of issuing securities for the purpose of paying the 850

cost, in excess of any insurance or condemnation proceeds 851
received by the district, of permanent improvements to respond 852
to the emergency need. 853

(3) The procedures for the election shall be as provided 854
in section 133.18 of the Revised Code, except that: 855

(a) The form of the ballot shall describe the emergency 856
existing, refer to this division as the authority under which 857
the emergency is declared, and state that the amount of the 858
proposed securities exceeds the limitations prescribed by 859
division (B) of this section; 860

(b) The resolution required by division (B) of section 861
133.18 of the Revised Code shall be certified to the county 862
auditor and the board of elections at least one hundred days 863
prior to the election; 864

(c) The county auditor shall advise and, not later than 865
ninety-five days before the election, confirm that advice by 866
certification to, the board of education of the information 867
required by division (C) of section 133.18 of the Revised Code; 868

(d) The board of education shall then certify its 869
resolution and the information required by division (D) of 870
section 133.18 of the Revised Code to the board of elections not 871
less than ninety days prior to the election. 872

(4) Notwithstanding division (B) of section 133.21 of the 873
Revised Code, the first principal payment of securities issued 874
under this division may be set at any date not later than sixty 875
months after the earliest possible principal payment otherwise 876
provided for in that division. 877

(G) (1) The board of education may contract with an 878
architect, professional engineer, or other person experienced in 879

the design and implementation of energy conservation measures 880
for an analysis and recommendations pertaining to installations, 881
modifications of installations, or remodeling that would 882
significantly reduce energy consumption in buildings owned by 883
the district. The report shall include estimates of all costs of 884
such installations, modifications, or remodeling, including 885
costs of design, engineering, installation, maintenance, 886
repairs, measurement and verification of energy savings, and 887
debt service, forgone residual value of materials or equipment 888
replaced by the energy conservation measure, as defined by the 889
Ohio facilities construction commission, a baseline analysis of 890
actual energy consumption data for the preceding three years 891
with the utility baseline based on only the actual energy 892
consumption data for the preceding twelve months, and estimates 893
of the amounts by which energy consumption and resultant 894
operational and maintenance costs, as defined by the commission, 895
would be reduced. 896

If the board finds after receiving the report that the 897
amount of money the district would spend on such installations, 898
modifications, or remodeling is not likely to exceed the amount 899
of money it would save in energy and resultant operational and 900
maintenance costs over the ensuing fifteen years, the board may 901
submit to the commission a copy of its findings and a request 902
for approval to incur indebtedness to finance the making or 903
modification of installations or the remodeling of buildings for 904
the purpose of significantly reducing energy consumption. 905

The facilities construction commission, in consultation 906
with the auditor of state, may deny a request under division (G) 907
(1) of this section by the board of education of any school 908
district that is in a state of fiscal watch pursuant to division 909
(A) of section 3316.03 of the Revised Code, if it determines 910

that the expenditure of funds is not in the best interest of the 911
school district. 912

No district board of education of a school district that 913
is in a state of fiscal emergency pursuant to division (B) of 914
section 3316.03 of the Revised Code shall submit a request 915
without submitting evidence that the installations, 916
modifications, or remodeling have been approved by the 917
district's financial planning and supervision commission 918
established under section 3316.05 of the Revised Code. 919

No board of education of a school district for which an 920
academic distress commission has been established under section 921
3302.10 of the Revised Code shall submit a request without first 922
receiving approval to incur indebtedness from the district's 923
academic distress commission established under that section, for 924
so long as such commission continues to be required for the 925
district. 926

(2) The board of education may contract with a person 927
experienced in the implementation of student transportation to 928
produce a report that includes an analysis of and 929
recommendations for the use of alternative fuel vehicles by 930
school districts. The report shall include cost estimates 931
detailing the return on investment over the life of the 932
alternative fuel vehicles and environmental impact of 933
alternative fuel vehicles. The report also shall include 934
estimates of all costs associated with alternative fuel 935
transportation, including facility modifications and vehicle 936
purchase costs or conversion costs. 937

If the board finds after receiving the report that the 938
amount of money the district would spend on purchasing 939
alternative fuel vehicles or vehicle conversion is not likely to 940

exceed the amount of money it would save in fuel and resultant 941
operational and maintenance costs over the ensuing five years, 942
the board may submit to the commission a copy of its findings 943
and a request for approval to incur indebtedness to finance the 944
purchase of new alternative fuel vehicles or vehicle conversions 945
for the purpose of reducing fuel costs. 946

The facilities construction commission, in consultation 947
with the auditor of state, may deny a request under division (G) 948
(2) of this section by the board of education of any school 949
district that is in a state of fiscal watch pursuant to division 950
(A) of section 3316.03 of the Revised Code, if it determines 951
that the expenditure of funds is not in the best interest of the 952
school district. 953

No district board of education of a school district that 954
is in a state of fiscal emergency pursuant to division (B) of 955
section 3316.03 of the Revised Code shall submit a request 956
without submitting evidence that the purchase or conversion of 957
alternative fuel vehicles has been approved by the district's 958
financial planning and supervision commission established under 959
section 3316.05 of the Revised Code. 960

No board of education of a school district for which an 961
academic distress commission has been established under section 962
3302.10 of the Revised Code shall submit a request without first 963
receiving approval to incur indebtedness from the district's 964
academic distress commission established under that section, for 965
so long as such commission continues to be required for the 966
district. 967

(3) The facilities construction commission shall approve 968
the board's request provided that the following conditions are 969
satisfied: 970

(a) The commission determines that the board's findings are reasonable.	971 972
(b) The request for approval is complete.	973
(c) If the request was submitted under division (G) (1) of this section, the installations, modifications, or remodeling are consistent with any project to construct or acquire classroom facilities, or to reconstruct or make additions to existing classroom facilities under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.	974 975 976 977 978 979
Upon receipt of the commission's approval, the district may issue securities without a vote of the electors in a principal amount not to exceed nine-tenths of one per cent of its tax valuation for the purpose specified in division (G) (1) or (2) of this section, but the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation.	980 981 982 983 984 985 986 987 988
(4) (a) So long as any securities issued under division (G) (1) of this section remain outstanding, the board of education shall monitor the energy consumption and resultant operational and maintenance costs of buildings in which installations or modifications have been made or remodeling has been done pursuant to that division. Except as provided in division (G) (4) (b) of this section, the board shall maintain and annually update a report in a form and manner prescribed by the facilities construction commission documenting the reductions in energy consumption and resultant operational and maintenance cost savings attributable to such installations, modifications, or remodeling. The resultant operational and maintenance cost	989 990 991 992 993 994 995 996 997 998 999 1000

savings shall be certified by the school district treasurer. The 1001
report shall be submitted annually to the commission. 1002

(b) If the facilities construction commission verifies 1003
that the certified annual reports submitted to the commission by 1004
a board of education under division (G)(4)(a) of this section 1005
fulfill the guarantee required under division (B) of section 1006
3313.372 of the Revised Code for three consecutive years, the 1007
board of education shall no longer be subject to the annual 1008
reporting requirements of division (G)(4)(a) of this section. 1009

(5) So long as any securities issued under division (G)(2) 1010
of this section remain outstanding, the board of education shall 1011
monitor the purchase of new alternative fuel vehicles or vehicle 1012
conversions pursuant to that division. The board shall maintain 1013
and annually update a report in a form and manner prescribed by 1014
the facilities construction commission documenting the purchase 1015
of new alternative fuel vehicles or vehicle conversions, the 1016
associated environmental impact, and return on investment. The 1017
resultant fuel and operational and maintenance cost savings 1018
shall be certified by the school district treasurer. The report 1019
shall be submitted annually to the commission. 1020

(H) With the consent of the superintendent of public 1021
instruction, a school district may incur without a vote of the 1022
electors net indebtedness that exceeds the amounts stated in 1023
divisions (A) and (G) of this section for the purpose of paying 1024
costs of permanent improvements, if and to the extent that both 1025
of the following conditions are satisfied: 1026

(1) The fiscal officer of the school district estimates 1027
that receipts of the school district from payments made under or 1028
pursuant to agreements entered into pursuant to section 725.02, 1029
1728.10, 3735.671, 5709.081, 5709.082, 5709.40, 5709.41, 1030

5709.45, 5709.57, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 1031
or 5709.82 of the Revised Code, or distributions under division 1032
(C) of section 5709.43 or division (B) of section 5709.47 of the 1033
Revised Code, or any combination thereof, are, after accounting 1034
for any appropriate coverage requirements, sufficient in time 1035
and amount, and are committed by the proceedings, to pay the 1036
debt charges on the securities issued to evidence that 1037
indebtedness and payable from those receipts, and the taxing 1038
authority of the district confirms the fiscal officer's 1039
estimate, which confirmation is approved by the superintendent 1040
of public instruction; 1041

(2) The fiscal officer of the school district certifies, 1042
and the taxing authority of the district confirms, that the 1043
district, at the time of the certification and confirmation, 1044
reasonably expects to have sufficient revenue available for the 1045
purpose of operating such permanent improvements for their 1046
intended purpose upon acquisition or completion thereof, and the 1047
superintendent of public instruction approves the taxing 1048
authority's confirmation. 1049

The maximum maturity of securities issued under division 1050
(H) of this section shall be the lesser of twenty years or the 1051
maximum maturity calculated under section 133.20 of the Revised 1052
Code. 1053

(I) A school district may incur net indebtedness by the 1054
issuance of securities in accordance with the provisions of this 1055
chapter in excess of the limit specified in division (B) or (C) 1056
of this section when necessary to raise the school district 1057
portion of the basic project cost and any additional funds 1058
necessary to participate in a project under Chapter 3318. of the 1059
Revised Code, including the cost of items designated by the 1060

facilities construction commission as required locally funded 1061
initiatives, the cost of other locally funded initiatives in an 1062
amount that does not exceed fifty per cent of the district's 1063
portion of the basic project cost, and the cost for site 1064
acquisition. The commission shall notify the superintendent of 1065
public instruction whenever a school district will exceed either 1066
limit pursuant to this division. 1067

(J) A school district whose portion of the basic project 1068
cost of its classroom facilities project under sections 3318.01 1069
to 3318.20 of the Revised Code is greater than or equal to one 1070
hundred million dollars may incur without a vote of the electors 1071
net indebtedness in an amount up to two per cent of its tax 1072
valuation through the issuance of general obligation securities 1073
in order to generate all or part of the amount of its portion of 1074
the basic project cost if the controlling board has approved the 1075
facilities construction commission's conditional approval of the 1076
project under section 3318.04 of the Revised Code. The school 1077
district board and the Ohio facilities construction commission 1078
shall include the dedication of the proceeds of such securities 1079
in the agreement entered into under section 3318.08 of the 1080
Revised Code. No state moneys shall be released for a project to 1081
which this section applies until the proceeds of any bonds 1082
issued under this section that are dedicated for the payment of 1083
the school district portion of the project are first deposited 1084
into the school district's project construction fund. 1085

Sec. 133.07. (A) A county shall not incur, without a vote 1086
of the electors, either of the following: 1087

(1) Net indebtedness for all purposes that exceeds an 1088
amount equal to one per cent of its tax valuation; 1089

(2) Net indebtedness for the purpose of paying the 1090

county's share of the cost of the construction, improvement, 1091
maintenance, or repair of state highways that exceeds an amount 1092
equal to one-half of one per cent of its tax valuation. 1093

(B) A county shall not incur total net indebtedness that 1094
exceeds an amount equal to one of the following limitations that 1095
applies to the county: 1096

(1) A county with a valuation not exceeding one hundred 1097
million dollars, three per cent of that tax valuation; 1098

(2) A county with a tax valuation exceeding one hundred 1099
million dollars but not exceeding three hundred million dollars, 1100
three million dollars plus one and one-half per cent of that tax 1101
valuation in excess of one hundred million dollars; 1102

(3) A county with a tax valuation exceeding three hundred 1103
million dollars, six million dollars plus two and one-half per 1104
cent of that tax valuation in excess of three hundred million 1105
dollars. 1106

(C) In calculating the net indebtedness of a county, none 1107
of the following securities shall be considered: 1108

(1) Securities described in section 307.201 of the Revised 1109
Code; 1110

(2) Self-supporting securities issued for any purposes, 1111
including, but not limited to, any of the following general 1112
purposes: 1113

(a) Water systems or facilities; 1114

(b) Sanitary sewerage systems or facilities, or surface 1115
and storm water drainage and sewerage systems or facilities, or 1116
a combination of those systems or facilities; 1117

(c) County or joint county scrap tire collection, storage,	1118
monocell, monofill, or recovery facilities, or any combination	1119
of those facilities;	1120
(d) Off-street parking lots, facilities, or buildings, or	1121
on-street parking facilities, or any combination of off-street	1122
and on-street parking facilities;	1123
(e) Facilities for the care or treatment of the sick or	1124
infirm, and for housing the persons providing that care or	1125
treatment and their families;	1126
(f) Recreational, sports, convention, auditorium, museum,	1127
trade show, and other public attraction facilities;	1128
(g) Facilities for natural resources exploration,	1129
development, recovery, use, and sale;	1130
(h) Correctional and detention facilities and related	1131
rehabilitation facilities.	1132
(3) Securities issued for the purpose of purchasing,	1133
constructing, improving, or extending water or sanitary or	1134
surface and storm water sewerage systems or facilities, or a	1135
combination of those systems or facilities, to the extent that	1136
an agreement entered into with another subdivision requires the	1137
other subdivision to pay to the county amounts equivalent to	1138
debt charges on the securities;	1139
(4) Voted general obligation securities issued for the	1140
purpose of permanent improvements for sanitary sewerage or water	1141
systems or facilities to the extent that the total principal	1142
amount of voted securities outstanding for the purpose does not	1143
exceed an amount equal to two per cent of the county's tax	1144
valuation;	1145

(5) Securities issued for permanent improvements to house 1146
agencies, departments, boards, or commissions of the county or 1147
of any municipal corporation located, in whole or in part, in 1148
the county, to the extent that the revenues, other than revenues 1149
from unvoted county property taxes, derived from leases or other 1150
agreements between the county and those agencies, departments, 1151
boards, commissions, or municipal corporations relating to the 1152
use of the permanent improvements are sufficient to cover the 1153
cost of all operating expenses of the permanent improvements 1154
paid by the county and debt charges on the securities; 1155

(6) Securities issued pursuant to section 133.08 of the 1156
Revised Code; 1157

(7) Securities issued for the purpose of acquiring or 1158
constructing roads, highways, bridges, or viaducts, for the 1159
purpose of acquiring or making other highway permanent 1160
improvements, or for the purpose of procuring and maintaining 1161
computer systems for the office of the clerk of any county- 1162
operated municipal court, for the office of the clerk of the 1163
court of common pleas, or for the office of the clerk of the 1164
probate, juvenile, or domestic relations division of the court 1165
of common pleas to the extent that the legislation authorizing 1166
the issuance of the securities includes a covenant to 1167
appropriate from moneys distributed to the county pursuant to 1168
division (B) of section 2101.162, 2151.541, 2153.081, 2301.031, 1169
or 2303.201 or Chapter 4501., 4503., 4504., or 5735. of the 1170
Revised Code a sufficient amount to cover debt charges on and 1171
financing costs relating to the securities as they become due; 1172

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

facility, or correctional facility;	1176
(9) Securities issued for the acquisition, construction,	1177
equipping, or repair of any permanent improvement or any class	1178
or group of permanent improvements enumerated in a resolution	1179
adopted pursuant to division (D) of section 5739.026, or under	1180
division (A) (10) <u>(J)</u> of section 5739.09, of the Revised Code to	1181
the extent that the legislation authorizing the issuance of the	1182
securities includes a covenant to appropriate from moneys	1183
received from the taxes authorized under section 5739.023 and	1184
division (A) (5) of section 5739.026, or under division (A) (10)	1185
<u>(J)</u> of section 5739.09 7 of the Revised Code, respectively, an	1186
amount sufficient to pay debt charges on the securities and	1187
those moneys shall be pledged for that purpose;	1188
(10) Securities issued for county or joint county solid	1189
waste or hazardous waste collection, transfer, or disposal	1190
facilities, or resource recovery and solid or hazardous waste	1191
recycling facilities, or any combination of those facilities;	1192
(11) Securities issued for the acquisition, construction,	1193
and equipping of a port authority educational and cultural	1194
facility under section 307.671 of the Revised Code;	1195
(12) Securities issued for the acquisition, construction,	1196
equipping, and improving of a municipal educational and cultural	1197
facility under division (B) (1) of section 307.672 of the Revised	1198
Code;	1199
(13) Securities issued for energy conservation measures	1200
under section 307.041 of the Revised Code;	1201
(14) Securities issued for the acquisition, construction,	1202
equipping, improving, or repair of a sports facility, including	1203
obligations issued to pay costs of a sports facility under	1204

section 307.673 of the Revised Code;	1205
(15) Securities issued under section 755.17 of the Revised Code if the legislation authorizing issuance of the securities includes a covenant to appropriate from revenue received from a tax authorized under division (A) (5) of section 5739.026 and section 5741.023 of the Revised Code an amount sufficient to pay debt charges on the securities, and the board of county commissioners pledges that revenue for that purpose, pursuant to section 755.171 of the Revised Code;	1206 1207 1208 1209 1210 1211 1212 1213
(16) Sales tax supported bonds issued pursuant to section 133.081 of the Revised Code for the purpose of acquiring, constructing, improving, or equipping any permanent improvement to the extent that the legislation authorizing the issuance of the sales tax supported bonds pledges county sales taxes to the payment of debt charges on the sales tax supported bonds and contains a covenant to appropriate from county sales taxes a sufficient amount to cover debt charges or the financing costs related to the sales tax supported bonds as they become due;	1214 1215 1216 1217 1218 1219 1220 1221 1222
(17) Bonds or notes issued under section 133.60 of the Revised Code if the legislation authorizing issuance of the bonds or notes includes a covenant to appropriate from revenue received from a tax authorized under division (A) (9) of section 5739.026 and section 5741.023 of the Revised Code an amount sufficient to pay the debt charges on the bonds or notes, and the board of county commissioners pledges that revenue for that purpose;	1223 1224 1225 1226 1227 1228 1229 1230
(18) Securities issued under section 3707.55 of the Revised Code for the acquisition of real property by a general health district;	1231 1232 1233

(19) Securities issued under division (A) (3) of section 1234
3313.37 of the Revised Code for the acquisition of real and 1235
personal property by an educational service center; 1236

(20) Securities issued for the purpose of paying the costs 1237
of acquiring, constructing, reconstructing, renovating, 1238
rehabilitating, expanding, adding to, equipping, furnishing, or 1239
otherwise improving an arena, convention center, or a 1240
combination of an arena and convention center under section 1241
307.695 of the Revised Code; 1242

(21) Securities issued for the purpose of paying project 1243
costs under section 307.678 of the Revised Code; 1244

(22) Securities issued for the purpose of paying project 1245
costs under section 307.679 of the Revised Code. 1246

(D) In calculating the net indebtedness of a county, no 1247
obligation incurred under division (F) of section 339.06 of the 1248
Revised Code shall be considered. 1249

Sec. 133.18. (A) The taxing authority of a subdivision may 1250
by legislation submit to the electors of the subdivision the 1251
question of issuing any general obligation bonds, for one 1252
purpose, that the subdivision has power or authority to issue. 1253

(B) When the taxing authority of a subdivision desires or 1254
is required by law to submit the question of a bond issue to the 1255
electors, it shall pass legislation that does all of the 1256
following: 1257

(1) Declares the necessity and purpose of the bond issue; 1258

(2) States the date of the authorized election at which 1259
the question shall be submitted to the electors; 1260

(3) States the amount, approximate date, estimated net 1261

average rate of interest, and maximum number of years over which 1262
the principal of the bonds may be paid; 1263

(4) Declares the necessity of levying a tax outside the 1264
tax limitation to pay the debt charges on the bonds and any 1265
anticipatory securities. 1266

The estimated net average interest rate shall be 1267
determined by the taxing authority based on, among other 1268
factors, then existing market conditions, and may reflect 1269
adjustments for any anticipated direct payments expected to be 1270
received by the taxing authority from the government of the 1271
United States relating to the bonds and the effect of any 1272
federal tax credits anticipated to be available to owners of all 1273
or a portion of the bonds. The estimated net average rate of 1274
interest, and any statutory or charter limit on interest rates 1275
that may then be in effect and that is subsequently amended, 1276
shall not be a limitation on the actual interest rate or rates 1277
on the securities when issued. 1278

~~(C) (1)~~ (C) The taxing authority shall certify a copy of 1279
the legislation passed under division (B) of this section to the 1280
county auditor. The county auditor shall promptly calculate and 1281
advise and, not later than ninety days before the election, 1282
confirm that advice by certification to, the taxing authority 1283
the estimated average annual property tax levy, expressed in 1284
cents or dollars and cents for each one hundred dollars of tax 1285
valuation and in mills for each one dollar of tax valuation, 1286
that the county auditor estimates to be required throughout the 1287
stated maturity of the bonds to pay the debt charges on the 1288
bonds. In calculating the estimated average annual property tax 1289
levy for this purpose, the county auditor shall assume that the 1290
bonds are issued in one series bearing interest and maturing in 1291

substantially equal principal amounts in each year over the 1292
maximum number of years over which the principal of the bonds 1293
may be paid as stated in that legislation, and that the amount 1294
of the tax valuation of the subdivision for the current year 1295
remains the same throughout the maturity of the bonds, ~~except as~~ 1296
~~otherwise provided in division (C) (2) of this section.~~ If the 1297
tax valuation for the current year is not determined, the county 1298
auditor shall base the calculation on the estimated amount of 1299
the tax valuation submitted by the county auditor to the county 1300
budget commission. If the subdivision is located in more than 1301
one county, the county auditor shall obtain the assistance of 1302
the county auditors of the other counties, and those county 1303
auditors shall provide assistance, in establishing the tax 1304
valuation of the subdivision for purposes of certifying the 1305
estimated average annual property tax levy. 1306

~~(2) When considering the tangible personal property 1307
component of the tax valuation of the subdivision, the county 1308
auditor shall take into account the assessment percentages 1309
prescribed in section 5711.22 of the Revised Code. The tax 1310
commissioner may issue rules, orders, or instructions directing 1311
how the assessment percentages must be utilized. 1312~~

(D) After receiving the county auditor's advice under 1313
division (C) of this section, the taxing authority by 1314
legislation may determine to proceed with submitting the 1315
question of the issue of securities, and shall, not later than 1316
the ninetieth day before the day of the election, file the 1317
following with the board of elections: 1318

(1) Copies of the legislation provided for in divisions 1319
(B) and (D) of this section; 1320

(2) The amount of the estimated average annual property 1321

tax levy, expressed in cents or dollars and cents for each one 1322
hundred dollars of tax valuation and in mills for each one 1323
dollar of tax valuation, as estimated and certified to the 1324
taxing authority by the county auditor. 1325

(E) (1) The board of elections shall prepare the ballots 1326
and make other necessary arrangements for the submission of the 1327
question to the electors of the subdivision. If the subdivision 1328
is located in more than one county, the board shall inform the 1329
boards of elections of the other counties of the filings with 1330
it, and those other boards shall if appropriate make the other 1331
necessary arrangements for the election in their counties. The 1332
election shall be conducted, canvassed, and certified in the 1333
manner provided in Title XXXV of the Revised Code. 1334

(2) The election shall be held at the regular places for 1335
voting in the subdivision. If the electors of only a part of a 1336
precinct are qualified to vote at the election the board of 1337
elections may assign the electors in that part to an adjoining 1338
precinct, including an adjoining precinct in another county if 1339
the board of elections of the other county consents to and 1340
approves the assignment. Each elector so assigned shall be 1341
notified of that fact prior to the election by notice mailed by 1342
the board of elections, in such manner as it determines, prior 1343
to the election. 1344

(3) The board of elections shall publish a notice of the 1345
election once in a newspaper of general circulation in the 1346
subdivision, no later than ten days prior to the election. The 1347
notice shall state all of the following: 1348

(a) The principal amount of the proposed bond issue; 1349

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

issued; 1351

(c) The maximum number of years over which the principal 1352
of the bonds may be paid; 1353

(d) The estimated additional average annual property tax 1354
levy, expressed in cents or dollars and cents for each one 1355
hundred dollars of tax valuation and in mills for each one 1356
dollar of tax valuation, to be levied outside the tax 1357
limitation, as estimated and certified to the taxing authority 1358
by the county auditor; 1359

(e) The first calendar year in which the tax is expected 1360
to be due. 1361

(F) (1) The form of the ballot to be used at the election 1362
shall be substantially either of the following, as applicable: 1363

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

to pay debt charges on any notes issued in anticipation of those 1380
bonds? 1381

	For the bond issue
	"
	Against the bond issue

1382

(b) In the case of an election held pursuant to 1383
legislation adopted under section 3375.43 or 3375.431 of the 1384
Revised Code: 1385

"Shall bonds be issued for _____ (name of library) 1386
for the purpose of _____ (purpose of the bond issue), in 1387
the principal amount of _____ (amount of the bond issue) by 1388
_____ (the name of the subdivision that is to issue the 1389
bonds and levy the tax) as the issuer of the bonds, to be repaid 1390
annually over a maximum period of _____ (the maximum number 1391
of years over which the principal of the bonds may be paid) 1392
years, and an annual levy of property taxes be made outside the 1393
ten-mill limitation, estimated by the county auditor to average 1394
over the repayment period of the bond issue _____ (number 1395
of mills) mills for each one dollar of tax valuation, which 1396
amounts to _____ (rate expressed in cents or dollars and 1397
cents, such as "36 cents" or "\$1.41") for each one hundred 1398
dollars of tax valuation, commencing in _____ (first year 1399
the tax will be levied), first due in calendar year _____ 1400
(first calendar year in which the tax shall be due), to pay the 1401
annual debt charges on the bonds, and to pay debt charges on any 1402
notes issued in anticipation of those bonds? 1403

1404

	For the bond issue
	Against the bond issue

"

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

(G) The board of elections shall promptly certify the 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 1431
under this section are issued, the net indebtedness of the 1432
subdivision exceeds that applicable to that subdivision or those 1433
securities, then and so long as that is the case none of the 1434
securities may be issued. 1435

(2) No securities authorized at an election under this 1436
section may be initially issued after the first day of the sixth 1437
January following the election, but this period of limitation 1438
shall not run for any time during which any part of the 1439
permanent improvement for which the securities have been 1440
authorized, or the issuing or validity of any part of the 1441
securities issued or to be issued, or the related proceedings, 1442
is involved or questioned before a court or a commission or 1443
other tribunal, administrative agency, or board. 1444

(3) Securities representing a portion of the amount 1445
authorized at an election that are issued within the applicable 1446
limitation on net indebtedness are valid and in no manner 1447
affected by the fact that the balance of the securities 1448
authorized cannot be issued by reason of the net indebtedness 1449
limitation or lapse of time. 1450

(4) Nothing in this division (I) shall be interpreted or 1451
applied to prevent the issuance of securities in an amount to 1452
fund or refund anticipatory securities lawfully issued. 1453

(5) The limitations of divisions (I) (1) and (2) of this 1454
section do not apply to any securities authorized at an election 1455
under this section if at least ten per cent of the principal 1456
amount of the securities, including anticipatory securities, 1457
authorized has theretofore been issued, or if the securities are 1458
to be issued for the purpose of participating in any federally 1459
or state-assisted program. 1460

(6) The certificate of the fiscal officer of the 1461
subdivision is conclusive proof of the facts referred to in this 1462
division. 1463

Sec. 135.142. (A) In addition to the investments 1464
authorized by section 135.14 of the Revised Code, any board of 1465
education, by a two-thirds vote of its members, may authorize 1466
the treasurer of the board of education to invest up to forty 1467
per cent of the interim moneys of the board, available for 1468
investment at any one time, in either of the following: 1469

(1) Commercial paper notes issued by any entity that is 1470
defined in division (D) of section 1705.01 of the Revised Code 1471
and has assets exceeding five hundred million dollars, and to 1472
which notes all of the following apply: 1473

(a) The notes are rated at the time of purchase in the 1474
highest classification established by at least two nationally 1475
recognized standard rating services. 1476

(b) The aggregate value of the notes does not exceed ten 1477
per cent of the aggregate value of the outstanding commercial 1478
paper of the issuing corporation. 1479

(c) The notes mature no later than two hundred seventy 1480
days after purchase. 1481

(d) The investment in commercial paper notes of a single 1482
issuer shall not exceed in the aggregate five per cent of 1483
interim moneys of the board available for investment at the time 1484
of purchase. 1485

(2) Bankers' acceptances of banks that are insured by the 1486
federal deposit insurance corporation and that mature no later 1487
than one hundred eighty days after purchase. 1488

(B) No investment authorized pursuant to division (A) of 1489
this section shall be made, whether or not authorized by a board 1490
of education, unless the treasurer of the board of education has 1491
completed additional training for making the types of 1492
investments authorized pursuant to division (A) of this section. 1493
The type and amount of such training shall be approved and may 1494
be conducted by or provided under the supervision of the 1495
treasurer of state. 1496

(C) The treasurer of the board of education shall prepare 1497
annually and submit to the board of education, the 1498
superintendent of public instruction, and the auditor of state, 1499
on or before the thirty-first day of August, a report listing 1500
each investment made pursuant to division (A) of this section 1501
during the preceding fiscal year, income earned from such 1502
investments, fees and commissions paid pursuant to division (D) 1503
of this section, and any other information required by the 1504
board, the superintendent, and the auditor of state. 1505

(D) A board of education may make appropriations and 1506
expenditures for fees and commissions in connection with 1507
investments made pursuant to division (A) of this section. 1508

(E) (1) In addition to the investments authorized by 1509
section 135.14 of the Revised Code and division (A) of this 1510
section, any board of education that is a party to an agreement 1511
with the treasurer of state pursuant to division (G) of section 1512
135.143 of the Revised Code and that has outstanding obligations 1513
issued under authority of section 133.10 ~~or 133.301~~ of the 1514
Revised Code may authorize the treasurer of the board of 1515
education to invest interim moneys of the board in debt 1516
interests rated in either of the two highest rating 1517
classifications by at least two nationally recognized standard 1518

rating services and issued by entities that are defined in 1519
division (D) of section 1705.01 of the Revised Code. The debt 1520
interests purchased under authority of division (E) of this 1521
section shall mature not later than the latest maturity date of 1522
the outstanding obligations issued under authority of section 1523
133.10 or 133.301 of the Revised Code. 1524

(2) If any of the debt interests acquired under division 1525
(E) (1) of this section ceases to be rated as there required, its 1526
issuer shall notify the treasurer of state of this fact within 1527
twenty-four hours. At any time thereafter the treasurer of state 1528
may require collateralization at the rate of one hundred two per 1529
cent of any remaining obligation of the entity, with securities 1530
authorized for investment under section 135.143 of the Revised 1531
Code. The collateral shall be delivered to and held by a 1532
custodian acceptable to the treasurer of state, marked to market 1533
daily, and any default to be cured within twelve hours. 1534
Unlimited substitution shall be allowed of comparable 1535
securities. 1536

Sec. 305.31. The procedure for submitting to a referendum 1537
a resolution adopted by a board of county commissioners under 1538
division (H) of section 307.695 of the Revised Code that is not 1539
submitted to the electors of the county for their approval or 1540
disapproval; any resolution adopted by a board of county 1541
commissioners pursuant to division (D) (1) of section 307.697, 1542
section 322.02, or 322.06, sections 940.31 and 940.33, division 1543
(B) (1) of section 4301.421, section 4504.02, 5739.021, or 1544
5739.026, division ~~(A) (6) (F)~~, ~~(A) (10) (J)~~, or ~~(M) (U)~~ of section 1545
5739.09, section 5741.021 or 5741.023, or division (C) (1) of 1546
section 5743.024 of the Revised Code; or a rule adopted pursuant 1547
to section 307.79 of the Revised Code shall be as prescribed by 1548
this section. 1549

Except as otherwise provided in this paragraph, when a 1550
petition, signed by ten per cent of the number of electors who 1551
voted for governor at the most recent general election for the 1552
office of governor in the county, is filed with the county 1553
auditor within thirty days after the date the resolution is 1554
passed or rule is adopted by the board of county commissioners, 1555
or is filed within forty-five days after the resolution is 1556
passed, in the case of a resolution adopted pursuant to section 1557
5739.021 of the Revised Code that is passed within one year 1558
after a resolution adopted pursuant to that section has been 1559
rejected or repealed by the electors, requesting that the 1560
resolution be submitted to the electors of the county for their 1561
approval or rejection, the county auditor shall, after ten days 1562
following the filing of the petition, and not later than four 1563
p.m. of the ninetieth day before the day of election, transmit a 1564
certified copy of the text of the resolution or rule to the 1565
board of elections. In the case of a petition requesting that a 1566
resolution adopted under division (D) (1) of section 307.697, 1567
division (B) (1) of section 4301.421, or division (C) (1) of 1568
section 5743.024 of the Revised Code be submitted to electors 1569
for their approval or rejection, the petition shall be signed by 1570
seven per cent of the number of electors who voted for governor 1571
at the most recent election for the office of governor in the 1572
county. The county auditor shall transmit the petition to the 1573
board together with the certified copy of the resolution or 1574
rule. The board shall examine all signatures on the petition to 1575
determine the number of electors of the county who signed the 1576
petition. The board shall return the petition to the auditor 1577
within ten days after receiving it, together with a statement 1578
attesting to the number of such electors who signed the 1579
petition. The board shall submit the resolution or rule to the 1580
electors of the county, for their approval or rejection, at the 1581

succeeding general election held in the county in any year, or 1582
on the day of the succeeding primary election held in the county 1583
in even-numbered years, occurring subsequent to ninety days 1584
after the auditor certifies the sufficiency and validity of the 1585
petition to the board of elections. 1586

No resolution shall go into effect until approved by the 1587
majority of those voting upon it. However, a rule shall take 1588
effect and remain in effect unless and until a majority of the 1589
electors voting on the question of repeal approve the repeal. 1590
Sections 305.31 to 305.41 of the Revised Code do not prevent a 1591
county, after the passage of any resolution or adoption of any 1592
rule, from proceeding at once to give any notice or make any 1593
publication required by the resolution or rule. 1594

The board of county commissioners shall make available to 1595
any person, upon request, a certified copy of any resolution or 1596
rule subject to the procedure for submitting a referendum under 1597
sections 305.31 to 305.42 of the Revised Code beginning on the 1598
date the resolution or rule is adopted by the board. The board 1599
may charge a fee for the cost of copying the resolution or rule. 1600

As used in this section, "certified copy" means a copy 1601
containing a written statement attesting that it is a true and 1602
exact reproduction of the original resolution or rule. 1603

Sec. 306.322. (A) For any regional transit authority that 1604
levies a property tax and that includes in its membership 1605
political subdivisions that are located in a county having a 1606
population of at least four hundred thousand according to the 1607
most recent federal census, the procedures of this section apply 1608
until November 5, 2013, and are in addition to and an 1609
alternative to those established in sections 306.32 and 306.321 1610
of the Revised Code for joining to the regional transit 1611

authority additional counties, municipal corporations, or 1612
townships. 1613

(B) Any municipal corporation or township may adopt a 1614
resolution or ordinance proposing to join a regional transit 1615
authority described in division (A) of this section. In its 1616
resolution or ordinance, the political subdivision may propose 1617
joining the regional transit authority for a limited period of 1618
three years or without a time limit. 1619

(C) The political subdivision proposing to join the 1620
regional transit authority shall submit a copy of its resolution 1621
or ordinance to the legislative authority of each municipal 1622
corporation and the board of trustees of each township 1623
comprising the regional transit authority. Within thirty days of 1624
receiving the resolution or ordinance for inclusion in the 1625
regional transit authority, the legislative authority of each 1626
municipal corporation and the board of trustees of each township 1627
shall consider the question of whether to include the additional 1628
subdivision in the regional transit authority, shall adopt a 1629
resolution or ordinance approving or rejecting the inclusion of 1630
the additional subdivision, and shall present its resolution or 1631
ordinance to the board of trustees of the regional transit 1632
authority. 1633

(D) If a majority of the political subdivisions comprising 1634
the regional transit authority approve the inclusion of the 1635
additional political subdivision, the board of trustees of the 1636
regional transit authority, not later than the tenth day 1637
following the day on which the last ordinance or resolution is 1638
presented, shall notify the subdivision proposing to join the 1639
regional transit authority that it may certify the proposal to 1640
the board of elections for the purpose of having the proposal 1641

placed on the ballot at the next general election or at a 1642
special election conducted on the day of the next primary 1643
election that occurs not less than ninety days after the 1644
resolution or ordinance is certified to the board of elections. 1645

(E) Upon certification of a proposal to the board of 1646
elections pursuant to this section, the board of elections shall 1647
make the necessary arrangements for the submission of the 1648
question to the electors of the territory to be included in the 1649
regional transit authority qualified to vote on the question, 1650
and the election shall be held, canvassed, and certified in the 1651
same manner as regular elections for the election of officers of 1652
the subdivision proposing to join the regional transit 1653
authority, except that, if the resolution proposed the inclusion 1654
without a time limitation the question appearing on the ballot 1655
shall read: 1656

"Shall the territory within the _____ 1657
(Name or names of political subdivisions to be joined) be added 1658
to _____ (Name) regional transit 1659
authority?" and shall a(n) _____ (here insert type of tax 1660
or taxes) at a rate of taxation not to exceed _____ (here insert 1661
maximum tax rate or rates) be levied for all transit purposes?" 1662

If the resolution proposed the inclusion with a three-year 1663
time limitation, the question appearing on the ballot shall 1664
read: 1665

"Shall the territory within the _____ 1666
(Name or names of political subdivisions to be joined) be added 1667
to _____ (Name) regional transit 1668
authority?" for three years and shall a(n) _____ (here 1669
insert type of tax or taxes) at a rate of taxation not to exceed 1670
_____ (here insert maximum tax rate or rates) be levied for all 1671

transit purposes for three years?" 1672

(F) If the question is approved by at least a majority of 1673
the electors voting on the question, the addition of the new 1674
territory is effective six months from the date of the 1675
certification of its passage, and the regional transit authority 1676
may extend the levy of the tax against all the taxable property 1677
within the territory that was added. If the question is approved 1678
at a general election or at a special election occurring prior 1679
to the general election but after the fifteenth day of July, the 1680
regional transit authority may amend its budget and resolution 1681
adopted pursuant to section 5705.34 of the Revised Code, and the 1682
levy shall be placed on the current tax list and duplicate and 1683
collected as other taxes are collected from all taxable property 1684
within the territorial boundaries of the regional transit 1685
authority, including the territory within the political 1686
subdivision added as a result of the election. If the budget of 1687
the regional transit authority is amended pursuant to this 1688
paragraph, the county auditor shall prepare and deliver an 1689
amended certificate of estimated resources to reflect the change 1690
in anticipated revenues of the regional transit authority. 1691

(G) If the question is approved by at least a majority of 1692
the electors voting on the question, the board of trustees of 1693
the regional transit authority immediately shall amend the 1694
resolution or ordinance creating the regional transit authority 1695
to include the additional political subdivision. 1696

(H) If the question approved by a majority of the electors 1697
voting on the question added the subdivision for three years, 1698
the territory of the additional municipal corporation or 1699
township in the regional transit authority shall be removed from 1700
the territory of the regional transit authority three years 1701

after the date the territory was added, as determined in the 1702
effective date of the election, and shall no longer be a part of 1703
that authority without any further action by either the 1704
political subdivisions that were included in the authority prior 1705
to submitting the question to the electors or of the political 1706
subdivision added to the authority as a result of the election. 1707
The regional transit authority reduced to its territory as it 1708
existed prior to the inclusion of the additional municipal 1709
corporation or township shall be entitled to levy and collect 1710
any property taxes that it was authorized to levy and collect 1711
prior to the enlargement of its territory and for which 1712
authorization has not expired, as if the enlargement had not 1713
occurred. 1714

Sec. 307.671. (A) As used in this section: 1715

(1) "Bonds" means, as the context requires: general 1716
obligation bonds of the county, or notes in anticipation 1717
thereof, described in division (B) (1) (b) of this section; 1718
revenue bonds of the port authority described in division (B) (2) 1719
(a) of this section; and urban renewal bonds, or notes in 1720
anticipation thereof, of the host municipal corporation 1721
described in division (B) (3) (a) of this section. 1722

(2) "Corporation" means a nonprofit corporation that is 1723
organized under the laws of this state and that includes within 1724
the purposes for which it is incorporated the authorization to 1725
lease and operate facilities such as a port authority 1726
educational and cultural facility. 1727

(3) "Debt service charges" means, for any period or 1728
payable at any time, the principal of and interest and any 1729
premium due on bonds for that period or payable at that time 1730
whether due at maturity or upon mandatory redemption, together 1731

with any required deposits to reserves for the payment of 1732
principal of and interest on such bonds, and includes any 1733
payments required by the port authority to satisfy any of its 1734
obligations arising from any guaranty agreements, reimbursement 1735
agreements, or other credit enhancement agreements described in 1736
division (C) of this section. 1737

(4) "Host municipal corporation" means the municipal 1738
corporation within the boundaries of which the port authority 1739
educational and cultural facility is located. 1740

(5) "Port authority" means a port authority created 1741
pursuant to the authority of section 4582.02 of the Revised Code 1742
by a county and a host municipal corporation. 1743

(6) "Port authority educational and cultural facility" 1744
means a facility located within an urban renewal area that may 1745
consist of a museum, archives, library, hall of fame, center for 1746
contemporary music, or other facilities necessary to provide 1747
programs of an educational and cultural nature, together with 1748
all parking facilities, walkways, and other auxiliary 1749
facilities, real and personal property, property rights, 1750
easements, and interests that may be appropriate for, or used in 1751
connection with, the operation of the facility. 1752

(7) "Urban renewal area" means an area of a host municipal 1753
corporation that the legislative authority of the host municipal 1754
corporation has, at any time, designated as appropriate for an 1755
urban renewal project pursuant to Chapter 725. of the Revised 1756
Code. 1757

(B) The board of county commissioners of a county, a port 1758
authority, and a host municipal corporation may enter into a 1759
cooperative agreement with a corporation, under which: 1760

(1) The board of county commissioners agrees to do all of 1761
the following: 1762

(a) Levy a tax under division ~~(D)~~(N) of section 5739.09 1763
of the Revised Code exclusively for the purposes described in 1764
divisions (B) (1) (c) and (d) of this section; 1765

(b) Issue general obligation bonds of the county, or notes 1766
in anticipation thereof, pursuant to Chapter 133. of the Revised 1767
Code, for the purpose of acquiring, constructing, and equipping 1768
the port authority educational and cultural facility and 1769
contribute the proceeds from the issuance to the port authority 1770
for such purpose. The cooperative agreement may provide that 1771
such proceeds be deposited with and administered by the trustee 1772
pursuant to the trust agreement provided for in division (C) of 1773
this section. 1774

(c) Following the issuance, sale, and delivery of the port 1775
authority revenue bonds provided for in division (B) (2) (a) of 1776
this section, and prior to the date certain stated in the 1777
cooperative agreement which shall be the date estimated for the 1778
completion of construction of the port authority educational and 1779
cultural facility, pledge and contribute to the port authority 1780
revenue from the tax levied pursuant to division (B) (1) (a) of 1781
this section, together with any investment earnings on that 1782
revenue, to pay a portion of the costs of acquiring, 1783
constructing, and equipping the port authority educational and 1784
cultural facility; 1785

(d) Following such date certain, pledge and contribute to 1786
the corporation all or such portion as provided for in the 1787
cooperative agreement of the revenue from the tax, together with 1788
any investment earnings on that revenue, to pay a portion of the 1789
costs of the corporation of leasing the port authority 1790

educational and cultural facility from the port authority.	1791
(2) The port authority agrees to do all of the following:	1792
(a) Issue revenue bonds of the port authority pursuant to Chapter 4582. of the Revised Code for the purpose of acquiring, constructing, and equipping the port authority educational and cultural facility;	1793 1794 1795 1796
(b) Construct the port authority educational and cultural facility;	1797 1798
(c) Lease the port authority educational and cultural facility to the corporation;	1799 1800
(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;	1801 1802 1803 1804 1805
(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.	1806 1807 1808 1809
(3) The host municipal corporation agrees to do both of the following:	1810 1811
(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	1812 1813 1814 1815 1816 1817 1818

the trustee pursuant to the trust agreement provided for in 1819
division (C) of this section. 1820

(b) To the extent provided for in the cooperative 1821
agreement, contribute to the county, for use by the county to 1822
pay debt service charges on the bonds of the county, or notes in 1823
anticipation thereof, described in division (B) (1) (b) of this 1824
section, any excess urban renewal service payments pledged by 1825
the host municipal corporation to the urban renewal bonds 1826
described in division (B) (3) (a) of this section and not required 1827
on an annual basis to pay debt service charges on the urban 1828
renewal bonds. 1829

(4) The corporation agrees to do all of the following: 1830

(a) Lease the port authority educational and cultural 1831
facility from the port authority; 1832

(b) Operate and maintain the port authority educational 1833
and cultural facility pursuant to the lease; 1834

(c) To the extent provided for in the cooperative 1835
agreement or the lease from the port authority, administer on 1836
behalf of the port authority the contracts for acquiring, 1837
constructing, or equipping a port authority educational and 1838
cultural facility. 1839

(C) The pledges and contributions described in divisions 1840
(B) (1) (c) and (d) of this section and provided for in the 1841
cooperative agreement shall be for the period stated in the 1842
cooperative agreement, but shall not be in excess of the period 1843
necessary to provide for the final retirement of the port 1844
authority revenue bonds provided for in division (B) (2) (a) of 1845
this section and any bonds issued by the port authority to 1846
refund such bonds, and for the satisfaction by the port 1847

authority of any of its obligations arising from any guaranty 1848
agreements, reimbursement agreements, or other credit 1849
enhancement agreements relating to such bonds or to the revenues 1850
pledged to such bonds. The cooperative agreement shall provide 1851
for the termination of the cooperative agreement including the 1852
pledges and contributions described in divisions (B) (1) (c) and 1853
(d) of this section if the port authority revenue bonds provided 1854
for in division (B) (2) (a) of this section have not been issued, 1855
sold, and delivered within two years of the effective date of 1856
the cooperative agreement. 1857

The cooperative agreement shall provide that any revenue 1858
bonds of the port authority shall be secured by a trust 1859
agreement between the port authority and a corporate trustee 1860
that is a trust company or bank having the powers of a trust 1861
company within or outside the state. The county may be a party 1862
to such trust agreement for the purpose of securing the pledge 1863
by the county of its contribution to the corporation pursuant to 1864
division (B) (1) (d) of this section. A tax levied pursuant to 1865
division (B) (1) (a) of this section is not subject to diminution 1866
by initiative or referendum or diminution by statute, unless 1867
provision is made therein for an adequate substitute therefor 1868
reasonably satisfactory to the trustee under the trust agreement 1869
that secures the revenue bonds of the port authority. 1870

(D) A pledge of money by a county under this section shall 1871
not be net indebtedness of the county for purposes of section 1872
133.07 of the Revised Code. 1873

(E) If the terms of the cooperative agreement so provide, 1874
any contract for the acquisition, construction, or equipping of 1875
a port authority educational and cultural facility shall be made 1876
in such manner as is determined by the board of directors of the 1877

port authority, and unless the cooperative agreement provides 1878
otherwise, such a contract is not subject to division (A) of 1879
section 4582.12 of the Revised Code. The port authority may take 1880
the assignment of and assume any contracts for the acquisition, 1881
construction, and equipping of a port authority educational and 1882
cultural facility that previously have been authorized by either 1883
or both the host municipal corporation or the corporation. Such 1884
contracts likewise are not subject to division (A) of section 1885
4582.12 of the Revised Code. 1886

Any contract for the acquisition, construction, or 1887
equipping of a port authority educational and cultural facility 1888
entered into, assigned, or assumed pursuant to this division 1889
shall provide that all laborers and mechanics employed for the 1890
acquisition, construction, or equipping of the port authority 1891
educational and cultural facility shall be paid at the 1892
prevailing rates of wages of laborers and mechanics for the 1893
class of work called for by the port authority educational and 1894
cultural facility, which wages shall be determined in accordance 1895
with the requirements of Chapter 4115. of the Revised Code for 1896
the determination of prevailing wage rates. 1897

Sec. 307.672. (A) As used in this section: 1898

(1) "Bonds" means general obligation bonds, or notes in 1899
anticipation thereof, of the county described in division (B)(1) 1900
(b) of this section, and general obligation bonds, or notes in 1901
anticipation thereof, of the host municipal corporation 1902
described in division (B)(2)(a) of this section. 1903

(2) "Corporation" means a nonprofit corporation that is 1904
organized under the laws of this state and that includes within 1905
the purposes for which it is incorporated the authorization to 1906
lease and operate facilities such as a municipal educational and 1907

cultural facility. 1908

(3) "Debt service charges" means, for any period or 1909
payable at any time, the principal of and interest and any 1910
premium due on bonds for that period or payable at that time 1911
whether due at maturity or upon mandatory redemption, together 1912
with any required deposits to reserves for the payment of 1913
principal of and interest on such bonds. 1914

(4) "Host municipal corporation" means the municipal 1915
corporation within the boundaries of which a municipal 1916
educational and cultural facility is or will be located. 1917

(5) "Municipal educational and cultural facility" means a 1918
facility that may consist of a museum, archives, library, hall 1919
of fame, center for contemporary music, or other facilities 1920
necessary to provide programs of an educational, recreational, 1921
and cultural nature, together with all parking facilities, 1922
walkways, and other auxiliary facilities, real and personal 1923
property, property rights, easements, and interests that may be 1924
appropriate for, or used in connection with, the operation of 1925
the facility. 1926

(B) The legislative authorities of a county and a host 1927
municipal corporation may enter into a cooperative agreement 1928
with a corporation, under which: 1929

(1) The legislative authority of the county agrees to: 1930

(a) Levy a tax under division ~~(E)~~ (O) of section 5739.09 1931
of the Revised Code, for a period not to exceed fifteen years 1932
unless extended under that division for an additional period of 1933
time, to pay the costs of acquiring, constructing, equipping, 1934
and improving a municipal educational and cultural facility, 1935
including the debt service charges on bonds; 1936

(b) Issue bonds of the county pursuant to Chapter 133. of	1937
the Revised Code for the purpose of acquiring, constructing,	1938
equipping, and improving a municipal educational and cultural	1939
facility;	1940
(c) Contribute revenue from the tax and the proceeds from	1941
the bonds described in divisions (B) (1) (a) and (b) of this	1942
section to the host municipal corporation for the purpose of	1943
acquiring, constructing, equipping, and improving a municipal	1944
educational and cultural facility;	1945
(2) The host municipal corporation agrees to:	1946
(a) Issue bonds of the host municipal corporation pursuant	1947
to Chapter 133. of the Revised Code for the purpose of	1948
acquiring, constructing, equipping, and improving a municipal	1949
educational and cultural facility;	1950
(b) Acquire, construct, equip, and improve a municipal	1951
educational and cultural facility;	1952
(c) Accept from the county pursuant to the cooperative	1953
agreement the revenues of the tax and the proceeds of the bonds	1954
described in divisions (B) (1) (a) and (b) of this section;	1955
(d) Lease a municipal educational and cultural facility to	1956
the corporation, or contract with the corporation for the	1957
operation and maintenance of the facility;	1958
(e) To the extent provided for in the cooperative	1959
agreement or the lease or contract with the corporation,	1960
authorize the corporation to administer on behalf of the host	1961
municipal corporation the contracts for acquiring, constructing,	1962
equipping, and improving a municipal educational and cultural	1963
facility.	1964

(3) The corporation agrees to:	1965
(a) Either lease the municipal educational and cultural facility from the host municipal corporation and operate and maintain the facility pursuant to the lease, or enter into a contract with the host municipal corporation pursuant to which the corporation shall operate and maintain the facility on behalf of the host municipal corporation;	1966 1967 1968 1969 1970 1971
(b) To the extent provided for in the cooperative agreement or the lease or contract with the host municipal corporation, administer on behalf of the host municipal corporation the contracts for acquiring, constructing, equipping, or improving a municipal educational and cultural facility.	1972 1973 1974 1975 1976 1977
(C) A tax levied pursuant to division (E) <u>(O)</u> of section 5739.09 of the Revised Code, the revenue from which is to be used to pay debt service charges on bonds described in division (B) (1) or (2) of this section is not subject to diminution by initiative or referendum or diminution by statute, unless provision is made therein for an adequate substitute therefor reasonably satisfactory to the legislative authorities of the host municipal corporation and the county.	1978 1979 1980 1981 1982 1983 1984 1985
(D) The legislative authorities of a county and a host municipal corporation that have entered into a cooperative agreement with a corporation pursuant to division (B) of this section may amend that cooperative agreement, with the participation of the corporation and a port authority as defined in section 307.674 of the Revised Code, to provide also for a port authority educational and cultural performing arts facility in accordance with section 307.674 of the Revised Code. Such an amendment shall become effective only to the extent that the tax	1986 1987 1988 1989 1990 1991 1992 1993 1994

levied under division ~~(E)~~(O) of section 5739.09 of the Revised Code is not needed for the duration of the original tax to pay costs of the municipal educational and cultural facility, including debt service charges on related bonds, as determined by the parties to the amendment. The tax may be pledged and paid by the parties to the amendment for the balance of the duration of the tax to a port authority educational and cultural performing arts facility.

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

(1) "Bonds" means:

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

(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;

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

(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.

(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 2024
buildings or structures on land so acquired, including the cost 2025
of acquiring any land to which those buildings or structures may 2026
be moved, the cost of public utility and common carrier 2027
relocation or duplication, the cost of all machinery, 2028
furnishings, and equipment, financing charges, interest prior to 2029
and during construction and for not more than three years after 2030
completion of construction, costs arising under guaranty 2031
agreements, reimbursement agreements, or other credit 2032
enhancement agreements relating to bonds, engineering, expenses 2033
of research and development with respect to such facility, legal 2034
expenses, plans, specifications, surveys, studies, estimates of 2035
costs and revenues, other expenses necessary or incident to 2036
determining the feasibility or practicability of acquiring or 2037
constructing the facility, administrative expense, and other 2038
expenses as may be necessary or incident to that acquisition or 2039
construction and the financing of such acquisition or 2040
construction, including, with respect to the revenue bonds of a 2041
port authority, amounts to be paid into any special funds from 2042
the proceeds of those bonds, and repayments to the port 2043
authority, host county, host municipal corporation, or 2044
corporation of any amounts advanced for the foregoing purposes. 2045

(4) "Debt service charges" means, for any period or 2046
payable at any time, the principal of and interest and any 2047
premium due on bonds for that period or payable at that time 2048
whether due at maturity or upon mandatory redemption, together 2049
with any required deposits to reserves for the payment of 2050
principal of and interest on those bonds, and includes any 2051
payments required by the port authority to satisfy any of its 2052
obligations under or arising from any guaranty agreements, 2053
reimbursement agreements, or other credit enhancement agreements 2054

described in division (C) of this section. 2055

(5) "Host county" means the county within the boundaries 2056
of which the port authority educational and cultural performing 2057
arts facility is or will be located. 2058

(6) "Host municipal corporation" means the municipal 2059
corporation within the boundaries of which the port authority 2060
educational and cultural performing arts facility is or will be 2061
located. 2062

(7) "Port authority" means a port authority created 2063
pursuant to section 4582.22 of the Revised Code. 2064

(8) "Port authority educational and cultural performing 2065
arts facility" means a facility that consists of a center for 2066
music or other performing arts, a theater or other facilities to 2067
provide programs of an educational, recreational, or cultural 2068
nature, or any combination of those purposes as determined by 2069
the parties to the cooperative agreement for which provision is 2070
made in division (B) of this section to fulfill the public 2071
educational, recreational, and cultural purposes set forth 2072
therein, together with all parking facilities, walkways, and 2073
other auxiliary facilities, real and personal property, property 2074
rights, easements, and interests that may be appropriate for, or 2075
used in connection with, the operation of the facility. 2076

(B) A host county, a host municipal corporation, and a 2077
port authority may enter into a cooperative agreement with a 2078
corporation under which, as further provided for in that 2079
agreement: 2080

(1) The host county may agree to do any or all of the 2081
following: 2082

(a) Levy and collect a tax under ~~division (E)~~ divisions 2083

(O) and ~~division (F)~~ (P) of section 5739.09 of the Revised Code 2084
for the purposes, and in an amount sufficient for those 2085
purposes, described in divisions (B) (1) (b) and (c) of this 2086
section; 2087

(b) Pay to the port authority all or such portion as 2088
provided for in the cooperative agreement of the revenue from 2089
the tax, together with any investment earnings on that revenue, 2090
to be used to pay a portion of the costs of acquiring, 2091
constructing, renovating, rehabilitating, equipping, or 2092
improving the port authority educational and cultural performing 2093
arts facility; 2094

(c) Pledge and pay to the corporation all or such portion 2095
as provided for in the cooperative agreement of the revenue from 2096
the tax, together with any investment earnings on that revenue, 2097
to be used to pay a portion of the costs to the corporation of 2098
leasing the port authority educational and cultural performing 2099
arts facility from the port authority. 2100

(2) The port authority may agree to do any or all of the 2101
following: 2102

(a) Issue its revenue bonds pursuant to section 4582.48 of 2103
the Revised Code for the purpose of paying all or a portion of 2104
the costs of the port authority educational and cultural 2105
performing arts facility; 2106

(b) Acquire, construct, renovate, rehabilitate, equip, and 2107
improve the port authority educational and cultural performing 2108
arts facility; 2109

(c) Lease the port authority educational and cultural 2110
performing arts facility to the corporation; 2111

(d) To the extent provided for in the cooperative 2112

agreement or the lease to the corporation, authorize the 2113
corporation to administer on behalf of the port authority the 2114
contracts for acquiring, constructing, renovating, 2115
rehabilitating, or equipping the port authority educational and 2116
cultural performing arts facility; 2117

(e) Use the revenue derived from the lease of the port 2118
authority educational and cultural performing arts facility to 2119
the corporation solely to pay debt service charges on revenue 2120
bonds of the port authority issued pursuant to division (B) (2) 2121
(a) of this section and to pay its obligations under or arising 2122
from any guaranty agreements, reimbursement agreements, or other 2123
credit enhancement agreements provided for in this section. 2124

(3) The host municipal corporation may agree to do either 2125
or both of the following: 2126

(a) Issue its bonds for the purpose of paying all or a 2127
portion of the costs of the port authority educational and 2128
cultural performing arts facility, and pay the proceeds from the 2129
issuance to the port authority for that purpose; 2130

(b) Enter into a guaranty agreement, a reimbursement 2131
agreement, or other credit enhancement agreement with the port 2132
authority to provide a guaranty or other credit enhancement of 2133
the port authority revenue bonds referred to in division (B) (2) 2134
(a) of this section pledging taxes, other than ad valorem 2135
property taxes, or other revenues for the purpose of providing 2136
the funds required to satisfy the host municipal corporation's 2137
obligations under that agreement. 2138

The cooperative agreement may provide that the proceeds of 2139
such securities or of such guaranty agreement, reimbursement 2140
agreement, or other credit enhancement agreement be deposited 2141

with and administered by the trustee pursuant to the trust 2142
agreement authorized in division (C) of this section. 2143

(4) The corporation may agree to do any or all of the 2144
following: 2145

(a) Lease the port authority educational and cultural 2146
performing arts facility from the port authority; 2147

(b) Operate and maintain the port authority educational 2148
and cultural performing arts facility pursuant to the lease; 2149

(c) To the extent provided for in the cooperative 2150
agreement or the lease from the port authority, administer on 2151
behalf of the port authority the contracts for acquiring, 2152
constructing, renovating, rehabilitating, or equipping the port 2153
authority educational and cultural performing arts facility. 2154

(C) The pledge and payments referred to in divisions (B) 2155
(1) (b) and (c) of this section and provided for in the 2156
cooperative agreement shall be for the period stated in the 2157
cooperative agreement but shall not extend longer than the 2158
period necessary to provide for the final retirement of the port 2159
authority revenue bonds referred to in division (B) (2) (a) of 2160
this section, and for the satisfaction by the port authority of 2161
any of its obligations under or arising from any guaranty 2162
agreements, reimbursement agreements, or other credit 2163
enhancement agreements relating to those bonds or to the 2164
revenues pledged to them. The cooperative agreement shall 2165
provide for the termination of the cooperative agreement, 2166
including the pledge and payment referred to in division (B) (1) 2167
(c) of this section, if the port authority revenue bonds 2168
referred to in division (B) (2) (a) of this section have not been 2169
issued, sold, and delivered within five years of the effective 2170

date of the cooperative agreement. 2171

The cooperative agreement shall provide that any port 2172
authority revenue bonds shall be secured by a trust agreement 2173
between the port authority and a corporate trustee that is a 2174
trust company or bank having the powers of a trust company 2175
within or outside the state but authorized to exercise trust 2176
powers within the state. The host county may be a party to that 2177
trust agreement for the purpose of better securing the pledge by 2178
the host county of its payment to the corporation pursuant to 2179
division (B) (1) (c) of this section. A tax levied pursuant to 2180
section 5739.09 of the Revised Code for the purposes specified 2181
in division (B) (1) (b) or (c) of this section is not subject to 2182
diminution by initiative or referendum or diminution by statute, 2183
unless provision is made for an adequate substitute reasonably 2184
satisfactory to the trustee under the trust agreement that 2185
secures the port authority revenue bonds. 2186

(D) A pledge of money by a host county under this section 2187
shall not be net indebtedness of the host county for purposes of 2188
section 133.07 of the Revised Code. A guaranty or other credit 2189
enhancement by a host municipal corporation under this section 2190
shall not be net indebtedness of the host municipal corporation 2191
for purposes of section 133.05 of the Revised Code. 2192

(E) If the terms of the cooperative agreement so provide, 2193
any contract for the acquisition, construction, renovation, 2194
rehabilitation, equipping, or improving of a port authority 2195
educational and cultural performing arts facility shall be made 2196
in such manner as is determined by the board of directors of the 2197
port authority, and unless the cooperative agreement provides 2198
otherwise, such a contract is not subject to division ~~(R) (2)~~ (A) 2199
(18) (b) of section 4582.31 of the Revised Code. The port 2200

authority may take the assignment of and assume any contracts 2201
for the acquisition, construction, renovation, rehabilitation, 2202
equipping, or improving of a port authority educational and 2203
cultural performing arts facility that had previously been 2204
authorized by any of the host county, the host municipality, or 2205
the corporation. Such contracts are not subject to division ~~(R)~~ 2206
~~(2)~~ (A) (18) (b) of section 4582.31 of the Revised Code. 2207

Any contract for the acquisition, construction, 2208
renovation, rehabilitation, equipping, or improving of a port 2209
authority educational and cultural performing arts facility 2210
entered into, assigned, or assumed pursuant to this division 2211
shall provide that all laborers and mechanics employed for the 2212
acquisition, construction, renovation, rehabilitation, 2213
equipping, or improving of that facility shall be paid at the 2214
prevailing rates of wages of laborers and mechanics for the 2215
class of work called for by the port authority educational and 2216
cultural performing arts facility, which wages shall be 2217
determined in accordance with the requirements of Chapter 4115. 2218
of the Revised Code for the determination of prevailing wage 2219
rates. 2220

Notwithstanding any provisions to the contrary in section 2221
123.281 of the Revised Code, construction services and general 2222
building services for a port authority educational and cultural 2223
performing arts facility funded completely or in part with money 2224
appropriated by the state to the Ohio facilities construction 2225
commission may be provided by a port authority or a corporation 2226
that occupies, will occupy, or is responsible for that facility, 2227
as determined by the commission. The construction services and 2228
general building services to be provided by the port authority 2229
or the corporation shall be specified in an agreement between 2230
the commission and the port authority or corporation. That 2231

agreement, or any actions taken under it, are not subject to 2232
Chapters 123. or 153. of the Revised Code, but are subject to 2233
Chapter 4115. of the Revised Code. 2234

Sec. 307.678. (A) As used in this section: 2235

(1) "Bureau" means a nonprofit corporation that is 2236
organized under the laws of this state that is, or has among its 2237
functions acting as, a convention and visitors' bureau, and that 2238
currently receives revenue from existing lodging taxes. 2239

(2) "Cooperating parties" means the parties to a 2240
cooperative agreement. 2241

(3) "Cooperative agreement" means an agreement entered 2242
into pursuant to or as contemplated by this section. 2243

(4) "Credit enhancement facilities" has the same meaning 2244
as in section 133.01 of the Revised Code. 2245

(5) "Debt charges" has the same meaning as in section 2246
133.01 of the Revised Code, except that "obligations" shall be 2247
substituted for "securities" wherever "securities" appears in 2248
that section. 2249

(6) "Eligible county" means a county within the boundaries 2250
of which any part of a tourism development district is located. 2251

(7) "Eligible transit authority" means a regional transit 2252
authority created pursuant to section 306.31 of the Revised Code 2253
or a county in which a county transit system is created pursuant 2254
to section 306.01 of the Revised Code, within the boundaries of 2255
which any part of a tourism development district is located. 2256

(8) "Existing lodging taxes" means taxes levied by a board 2257
of county commissioners of an eligible county under ~~division~~ 2258
divisions (A) to (L) of section 5739.09 of the Revised Code. 2259

(9) "Financing costs" means all costs, fees, and expenses	2260
relating to the authorization, including any required election,	2261
issuance, sale, delivery, authentication, deposit, custody,	2262
clearing, registration, transfer, exchange, fractionalization,	2263
replacement, payment, and servicing, of obligations, including,	2264
without limitation, costs and expenses for or relating to	2265
publication and printing, postage, delivery, preliminary and	2266
final official statements, offering circulars, placement	2267
memoranda, and informational statements, travel and	2268
transportation, underwriters, placement agents, investment	2269
bankers, paying agents, registrars, authenticating agents,	2270
remarketing agents, custodians, clearing agencies, companies, or	2271
corporations, securities depositories, issuers, financial	2272
advisory services, certifications, audits, federal or state	2273
regulatory agencies, accounting and computation services, legal	2274
services and obtaining approving legal opinions and other legal	2275
opinions, credit ratings, paying redemption premiums, and credit	2276
enhancement facilities. Financing costs may be paid from any	2277
money available for the purpose, including, unless otherwise	2278
provided in the proceedings, from the proceeds of the	2279
obligations to which they relate and, as to future financing	2280
costs, from the same sources from which debt charges on the	2281
obligations are paid and as though debt charges.	2282
(10) "Host municipal corporation" means a municipal	2283
corporation within the boundaries of which any part of a tourism	2284
development district is located.	2285
(11) "Host school district" means a school district within	2286
the boundaries of which any part of a tourism development	2287
district is located.	2288
(12) "Incremental sales tax growth" has the same meaning	2289

as in section 5739.213 of the Revised Code, except that, in the 2290
case of an eligible county, "incremental sales tax growth" shall 2291
include only the amount of taxes levied under sections 5739.021 2292
and 5739.026 of the Revised Code credited to the county's 2293
general fund. 2294

(13) "Issuer" means a port authority, a new community 2295
authority, or any other issuer, as defined in section 133.01 of 2296
the Revised Code, and any corporation. 2297

(14) "Maintenance and repair costs" means costs and 2298
expenses incurred by a cooperating party from the party's own 2299
revenues for maintaining or repairing a project. 2300

(15) "Net lodging tax proceeds" means the proceeds of an 2301
existing lodging tax that remain after deduction by an eligible 2302
county of the real and actual costs of administering the tax and 2303
any portion of such proceeds required to be returned to a 2304
municipal corporation or township under division (A) ~~(1)~~ of 2305
section 5739.09 of the Revised Code. 2306

(16) "Net tourism development district revenues" means the 2307
tourism development district revenues remaining after deduction 2308
by the host municipal corporation of an amount, not to exceed 2309
one per cent of any admissions tax revenues, prescribed in any 2310
legislation by which, or agreement pursuant to which, tourism 2311
development district revenues are pledged, or agreed to be 2312
pledged or contributed, by an eligible county, an eligible 2313
transit authority, or a host municipal corporation, or any 2314
combination thereof, in accordance with division (B), (E), (F), 2315
or (G) of this section. 2316

(17) "New community authority" means a new community 2317
authority established under section 349.03 of the Revised Code 2318

by an organizational board of commissioners that is or includes 2319
the board of county commissioners of an eligible county or the 2320
legislative authority of a host municipal corporation. 2321

(18) "Obligations" means obligations issued or incurred by 2322
an issuer pursuant to Chapter 133., 349., or 4582. of the 2323
Revised Code, or otherwise, for the purpose of funding or 2324
paying, or reimbursing persons for the funding or payment of, 2325
project costs, and that evidence the issuer's obligation to 2326
repay borrowed money, including interest thereon, or to pay 2327
other money obligations of the issuer at any future time, 2328
including, without limitation, bonds, notes, anticipatory 2329
securities as defined in section 133.01 of the Revised Code, 2330
certificates of indebtedness, commercial paper, or installment 2331
sale, lease, lease-purchase, or similar agreements. 2332
"Obligations" does not include credit enhancement facilities. 2333

(19) "Person" includes an individual, corporation, limited 2334
liability company, business trust, estate, trust, partnership, 2335
association, eligible county, eligible transit authority, host 2336
municipal corporation, port authority, new community authority, 2337
and any other political subdivision of the state. 2338

(20) "Port authority" means a port authority created under 2339
Chapter 4582. of the Revised Code. 2340

(21) "Project" means acquiring, constructing, 2341
reconstructing, rehabilitating, remodeling, renovating, 2342
enlarging, equipping, furnishing, or otherwise improving a 2343
tourism facility or any component or element thereof. 2344

(22) "Project cost" means the cost of acquiring, 2345
constructing, reconstructing, rehabilitating, remodeling, 2346
renovating, enlarging, equipping, financing, refinancing, 2347

furnishing, or otherwise improving a project, including, without 2348
limitation, financing costs; the cost of architectural, 2349
engineering, and other professional services, designs, plans, 2350
specifications, surveys, and estimates of costs; financing or 2351
refinancing obligations issued by, or reimbursing money advanced 2352
by, any cooperating party or any other person, where the 2353
proceeds of the obligations or money advanced was used to pay 2354
any other cost described in this division; inspections and 2355
testing; any indemnity or surety bond or premium related to 2356
insurance pertaining to development of the project; all related 2357
direct and indirect administrative costs and costs of placing a 2358
project in service; fees and expenses of trustees, escrow 2359
agents, depositories, and paying agents for any obligations; 2360
interest on obligations during the planning, design, and 2361
development of a project and for up to eighteen months 2362
thereafter; funding and replenishing reserves for the payment of 2363
debt charges on any obligations; all other expenses necessary or 2364
incident to planning, or determining the feasibility or 2365
practicability of, a project, including, without limitation, 2366
advocating the enactment of legislation to facilitate the 2367
development and financing of a project; and any other costs of a 2368
project that are authorized to be financed by the issuer of 2369
obligations at the time the obligations are issued. 2370

(23) "Taxing authority" means the board of county 2371
commissioners of an eligible county, the legislative authority, 2372
as that term is defined in section 5739.01 of the Revised Code, 2373
of an eligible transit authority, or the legislative authority 2374
of a host municipal corporation. 2375

(24) "Tourism development district" means an area 2376
designated by a host municipal corporation under section 715.014 2377
of the Revised Code. 2378

(25) "Tourism development district revenues" means money 2379
received or receivable by a host municipal corporation from 2380
incremental sales tax growth pursuant to section 5739.213 of the 2381
Revised Code, from a tax levied by the host municipal 2382
corporation pursuant to division (C) of section 5739.101 of the 2383
Revised Code, from a tax levied by the host municipal 2384
corporation pursuant to section 5739.08 or 5739.09 of the 2385
Revised Code on the provision of lodging by hotels located in 2386
the tourism development district, from a tax levied by the host 2387
municipal corporation with respect to admission to any tourism 2388
facility or parking or any other activity occurring at any 2389
location in the tourism development district, or from any tax 2390
levied by an eligible county, eligible transit authority, or 2391
host municipal corporation, except for a tax on property levied 2392
by an eligible county, with respect to activities occurring, or 2393
property located, in the tourism development district, if and to 2394
the extent that revenue from any such tax is authorized to be 2395
used, or is not prohibited by law from being used, to foster and 2396
develop tourism in the tourism development district and is 2397
authorized, contracted, pledged or assigned by the respective 2398
taxing authority to be used to fund or pay, or to reimburse 2399
other persons for funding or payment of, project costs or 2400
maintenance and repair costs. 2401

(26) "Tourism facility" means any permanent improvement, 2402
as defined in section 133.01 of the Revised Code, located in a 2403
tourism development district. 2404

(B) The board of county commissioners of an eligible 2405
county, an eligible transit authority, a host municipal 2406
corporation, the board of education of a host school district, a 2407
port authority, a bureau, a new community authority, and any 2408
other person, or any combination thereof, may enter into a 2409

cooperative agreement for any purpose authorized under this	2410
section and under which any of the following apply:	2411
(1) The board of county commissioners of the eligible	2412
county and the bureau agree to make available to a cooperating	2413
party or any other person net lodging tax proceeds, not to	2414
exceed five hundred thousand dollars each year, to fund or pay,	2415
or to reimburse other persons for funding or payment of, project	2416
costs or debt charges on obligations.	2417
(2) The board of county commissioners of the eligible	2418
county agrees, for the purpose of funding or paying or	2419
supporting, or for reimbursing other persons for funding or	2420
payment of, project costs, including debt charges on	2421
obligations, may do either of the following:	2422
(a) Make available to a cooperating party or other person	2423
an amount equal to incremental sales tax growth or all or a	2424
portion of the county's tourism development district revenues;	2425
(b) Provide, from receipts of a tax levied by the county	2426
under division (A)(11) <u>(K)</u> of section 5739.09 of the Revised	2427
Code, credit enhancement facilities in connection with the	2428
funding or payment of project costs, including debt charges on	2429
obligations, or any portion or combination thereof.	2430
(3) The taxing authority of an eligible transit authority	2431
agrees to make available to a cooperating party or any other	2432
person an amount equal to incremental sales tax growth or all or	2433
a portion of the transit authority's tourism development	2434
district revenues.	2435
(4) The host municipal corporation agrees to make	2436
available credit enhancement facilities or net tourism	2437
development district revenues, or any portion or combination	2438

thereof, to fund, pay, or support, or to reimburse other persons 2439
for funding or payment of, project costs, including debt charges 2440
on obligations, or maintenance and repair costs, or both. Any 2441
agreement to use net tourism development district revenues to 2442
pay or reimburse other persons for payment of maintenance and 2443
repair costs shall be subject to authorization by any 2444
cooperating party providing such funding to the host municipal 2445
corporation and to annual appropriation for such purpose by the 2446
legislative authority of the host municipal corporation and 2447
shall be subordinate to any covenant made to or by an issuer in 2448
connection with the issuance of obligations or credit 2449
enhancement facilities to pay project costs. 2450

(5) The cooperating parties agree, subject to any 2451
conditions or limitations provided in the cooperative agreement, 2452
to any of the following: 2453

(a) The conveyance, grant, or transfer to a cooperating 2454
party or any other person of ownership of, property interests 2455
in, and rights to use real or personal property to create a 2456
tourism facility or with respect to a tourism facility as the 2457
facility exists at the time of the agreement or as it may be 2458
improved by a project; 2459

(b) The respective responsibilities of each cooperating 2460
party for the management, operation, maintenance, repair, and 2461
replacement of a tourism facility, including any project 2462
undertaken with respect to the facility, which may include 2463
authorization for a cooperating party to contract with any other 2464
person for any such purpose; 2465

(c) The respective responsibilities of each cooperating 2466
party for the development and financing of a project, including, 2467
without limitation, the cooperating party or parties that shall 2468

be responsible for contracting for the development of a project 2469
and administering contracts entered into by the party or parties 2470
for that purpose; 2471

(d) The respective responsibilities of each cooperating 2472
party to provide money, credit enhancement facilities, or both, 2473
whether by issuing obligations or otherwise, for the funding, 2474
payment, financing, or refinancing, or reimbursement to a 2475
cooperating party or other person for the funding, payment, 2476
financing, or refinancing, of project costs; 2477

(e) The respective responsibilities of each cooperating 2478
party to provide money, credit enhancement facilities, or other 2479
security for the payment of debt charges on obligations or to 2480
fund or replenish reserves or otherwise provide for the payment 2481
of maintenance and repair costs. 2482

(C) Any conveyance, grant, or transfer of ownership of, 2483
property interests in, or rights to use a tourism development 2484
facility or project, including any project undertaken with 2485
respect to an existing tourism facility, that is contemplated by 2486
a cooperative agreement may be made or entered into by a 2487
cooperating party, in such manner and upon such terms as the 2488
cooperating parties may agree, without regard to ownership of 2489
the tourism facility or project, notwithstanding any other 2490
provision of law that may otherwise apply, including, without 2491
limitation, any requirement for notice, competitive bidding or 2492
selection, or the provision of security. 2493

(D) The board of county commissioners may amend any 2494
previously adopted resolution providing for the levy of an 2495
existing lodging tax to permit the use of any portion of the net 2496
lodging tax proceeds from such tax as provided in this section 2497
if and to the extent such use is not inconsistent with a 2498

cooperative agreement. A host municipal corporation may amend 2499
any previously passed ordinance providing for the levy of 2500
lodging taxes under section 5739.08 or 5739.09 of the Revised 2501
Code to permit the use of any portion of such lodging taxes as 2502
provided in this section. 2503

(E) (1) Notwithstanding any other provision of law: 2504

(a) The board of county commissioners of an eligible 2505
county may provide, from receipts of a tax levied by the county 2506
under division ~~(A)(11)~~ (K) of section 5739.09 of the Revised 2507
Code, credit enhancement facilities in connection with any 2508
project, including, without limitation, for the provision of any 2509
infrastructure necessary to support a tourism facility. 2510

(b) The board of county commissioners of an eligible 2511
county and a bureau may agree to make available to any person, 2512
on such terms and conditions as the board and the bureau may 2513
determine and agree, net lodging tax proceeds. 2514

(c) The board of county commissioners of an eligible 2515
county may agree to make available to any person, on such terms 2516
and conditions as the board may determine and agree, incremental 2517
sales tax growth and all or a portion of the county's tourism 2518
development district revenues. 2519

(2) Any amount made available under division (E) (1) (b) or 2520
(c) of this section shall be used to fund or pay, or to 2521
reimburse other persons for funding or payment of, project 2522
costs, including, without limitation, the payment of debt 2523
charges on obligations, the provision of credit enhancement 2524
facilities and the funding, and funding and replenishing 2525
reserves for that purpose or, subject to annual appropriation, 2526
to pay, or reimburse other persons for payment of, repair and 2527

maintenance costs. 2528

(3) The board of county commissioners, the bureau, or 2529
both, may pledge net lodging tax proceeds, and the board of 2530
county commissioners may pledge incremental sales tax growth and 2531
any tourism development district revenues, or any part or 2532
portion or combination thereof, to the payment of debt charges 2533
on obligations and the funding, or to fund or replenish reserves 2534
for that purpose; provided that, the total amount of net lodging 2535
tax proceeds made available for such use each year shall not 2536
exceed five hundred thousand dollars. 2537

The lien of any such pledge shall be effective against all 2538
persons when it is made, without the requirement for the filing 2539
of any notice, and any such net lodging tax proceeds, 2540
incremental sales tax growth, and tourism development district 2541
revenues, or any part or portion or combination thereof, so 2542
pledged and required to pay debt charges on obligations, to 2543
provide any credit enhancement facilities or to fund, or to fund 2544
or replenish reserves, or any combination thereof, shall be paid 2545
by the county or bureau at the times, in the amounts, and to 2546
such payee, including, without limitation, a corporate trustee 2547
or paying agent, to which the board of county commissioners and 2548
bureau agree with respect to net lodging tax proceeds and to 2549
which the board of county commissioners agree with respect to 2550
incremental sales tax growth or tourism development district 2551
revenues. 2552

(F) Notwithstanding any other provision of law, a host 2553
municipal corporation may agree to make available to any person, 2554
on such terms and conditions to which it may determine and 2555
agree, and any person may use, net tourism development district 2556
revenues, or any part or portion thereof, to fund or pay, or to 2557

reimburse other persons for funding or payment of, project 2558
costs, including, without limitation, the payment of debt 2559
charges on obligations and the funding, and funding and 2560
replenishing reserves for that purpose, or, subject to annual 2561
appropriation, to pay, or to reimburse other persons for payment 2562
of maintenance and repair costs, and the host municipal 2563
corporation may pledge net tourism development district 2564
revenues, or any part or portion thereof, to the payment of debt 2565
charges on obligations and to fund and replenish reserves for 2566
that purpose and may provide credit enhancement facilities. The 2567
lien of any such pledge shall be effective against all persons 2568
when it is made, without the requirement for the filing of any 2569
notice, and any net tourism development district revenues so 2570
pledged and required to pay debt charges on obligations or to 2571
fund and replenish reserves shall be paid by the host municipal 2572
corporation at the times, in the amounts, and to such payee, 2573
including, without limitation, a corporate trustee or paying 2574
agent, to which the host municipal corporation agrees. 2575

(G) Notwithstanding any other provision of law, an 2576
eligible transit authority may agree to make available, on such 2577
terms and conditions to which it may determine and agree, to any 2578
person, and any person may use, incremental sales tax growth and 2579
tourism development district revenues, or any part or portion or 2580
combination thereof, to fund or pay, or to reimburse other 2581
persons for funding or payment of, project costs, including, 2582
without limitation, the payment of debt charges on obligations 2583
and the funding and replenishing of reserves for that purpose, 2584
or, subject to annual appropriation, to pay, or to reimburse any 2585
other person for payment of, maintenance and repair costs, and 2586
the eligible transit authority may pledge incremental sales tax 2587
growth and tourism development district revenues, or any part or 2588

portion or combination thereof, to the payment of debt charges 2589
on obligations and the funding and replenishing of reserves for 2590
that purpose. The lien of any such pledge shall be effective 2591
against all persons when it is made, without the requirement for 2592
the filing of any notice, and any incremental sales tax growth 2593
and tourism development district revenues, or any part or 2594
portion or combination thereof, so pledged and required to pay 2595
debt charges on obligations or to fund and replenish reserves 2596
shall be paid by the eligible transit authority at the times, in 2597
the amounts, and to such payee, including, without limitation, a 2598
corporate trustee or paying agent, to which the eligible transit 2599
authority agrees. 2600

(H) Except as provided herein with respect to agreements 2601
for the payment or reimbursement of maintenance and repair 2602
costs, if the term of an agreement made pursuant to division 2603
(B), (E), (F), or (G) of this section extends beyond the end of 2604
the fiscal year of the eligible county, eligible transit 2605
authority, or host municipal corporation in which it is made, 2606
the agreement shall be subject to section 5705.44 of the Revised 2607
Code, and subject to the certification required by that section, 2608
the amount due under any such agreement in each succeeding 2609
fiscal year shall be included in the annual appropriation 2610
measure of the eligible county, eligible transit authority, or 2611
host municipal corporation for each such fiscal year as a fixed 2612
charge. The obligation of an eligible county, eligible transit 2613
authority, or host municipal corporation, and of each official 2614
thereof, to include the amount required to be paid in any such 2615
fiscal year in its annual appropriation measure as a fixed 2616
charge and to make such payments from and to the extent of the 2617
amounts so pledged, or agreed to be contributed or pledged, 2618
shall be a duty specially enjoined by law and resulting from an 2619

office, trust, or station under section 2731.01 of the Revised Code, enforceable by writ of mandamus. 2620
2621

(I) (1) Each tourism facility and project constitutes a 2622
"port authority facility" within the meaning of division (D) of 2623
section 4582.01 and division (E) of section 4582.21 of the 2624
Revised Code, and a port authority may issue obligations under 2625
Chapter 4582. of the Revised Code, subject only to the 2626
procedures and requirements applicable to its issuance of 2627
revenue bonds as provided in division (A) (4) of section 4582.06 2628
of the Revised Code or of port authority revenue bonds as 2629
provided in division (A) (8) of section 4582.31 of the Revised 2630
Code. For the purpose of issuing any such obligations, any net 2631
lodging tax proceeds, net tourism development district revenues, 2632
amounts provided pursuant to any credit enhancement facilities, 2633
and revenue from any other tax pledged, assigned, or otherwise 2634
obligated to be contributed to the payment of the obligations 2635
shall be treated as revenues of the port authority for the 2636
purposes of division (A) (4) of section 4582.06 of the Revised 2637
Code and revenues, as defined in section 4582.21 of the Revised 2638
Code. Any obligations issued under division (I) (1) of this 2639
section shall be considered revenue bonds issued under division 2640
(A) (4) of section 4582.06 of the Revised Code or port authority 2641
revenue bonds issued under division (A) (8) of section 4582.31 2642
and section 4582.48 of the Revised Code for all purposes. In 2643
addition to all other powers available to a port authority under 2644
this section or under Chapter 4582. of the Revised Code with 2645
respect to the issuance of or provision for the security for 2646
payment of debt charges on obligations, and with respect to any 2647
tourism facility or project, the port authority may take any of 2648
the actions contemplated by Chapter 4582. of the Revised Code, 2649
including, without limitation, any actions contemplated by 2650

section 4582.06, 4582.31, or 4582.47 of the Revised Code. 2651

Obligations issued by a port authority pursuant to division (I) 2652

(1) of this section shall be special obligations of the port 2653

authority and do not constitute bonded indebtedness, a general 2654

obligation, debt, or a pledge of the full faith and credit of 2655

the state, the port authority, or any other political 2656

subdivision of the state. 2657

(2) Each tourism facility and project constitutes 2658

"community facilities" within the meaning of division (I) of 2659

section 349.01 of the Revised Code, and a new community 2660

authority may issue obligations pursuant to Chapter 349. of the 2661

Revised Code subject only to the procedures and requirements 2662

applicable to its issuance of bonds or notes as used in and 2663

pursuant to section 349.08 of the Revised Code. For the purpose 2664

of issuing any such obligations, net lodging tax proceeds, net 2665

tourism development district revenues, and revenue from any 2666

other tax pledged, assigned, or otherwise obligated to be 2667

contributed to the payment of the obligations shall be treated 2668

as an income source, as defined in section 349.01 of the Revised 2669

Code. Any obligations issued under division (I)(2) of this 2670

section shall be considered bonds issued under section 349.08 of 2671

the Revised Code. In addition to all other powers available to a 2672

new community authority under division (I)(2) of this section or 2673

under Chapter 349. of the Revised Code with respect to the 2674

issuance of or provision for the security for payment of debt 2675

charges on obligations, and with respect to any tourism facility 2676

or project, the new community authority may take any of the 2677

actions contemplated by Chapter 349. of the Revised Code. 2678

Obligations issued by a new community authority pursuant to 2679

division (I)(2) of this section shall be special obligations of 2680

the new community authority and do not constitute bonded 2681

indebtedness, a general obligation, debt, or a pledge of the 2682
full faith and credit of the state, the new community authority, 2683
or any other political subdivision of the state. 2684

(J) Each project for which funding or payment of project 2685
costs is provided, in whole or in part, by the issuance of 2686
obligations secured by a pledge of net lodging tax proceeds or 2687
net tourism development district revenues, or both, and any 2688
agreement to provide credit enhancement facilities or to fund or 2689
pay, and the funding or payment of, such project costs and any 2690
maintenance and repair costs of the project from net lodging 2691
taxes and net tourism development district revenues, are hereby 2692
determined, regardless of the ownership, leasing, or use of the 2693
project by any person, to constitute implementing and 2694
participating in the development of sites and facilities within 2695
the meaning of Section 2p of Article VIII, Ohio Constitution, 2696
including division (D) (3) of that section, and any such 2697
obligations are hereby determined to be issued, and any such 2698
credit enhancement facilities and agreements to fund or pay, and 2699
funding and payment of, project costs and any maintenance and 2700
repair costs of the project, are determined to be made, under 2701
authority of Section 2p of Article VIII, Ohio Constitution, for 2702
and in furtherance of site and facility development purposes 2703
within the meaning of division (E) of that section, pursuant to 2704
provision made by law for the procedure for incurring and 2705
issuing obligations, separately or in combination with other 2706
obligations, and refunding, retiring, and evidencing 2707
obligations, and pursuant to division (F) of Section 2p of 2708
Article VIII, Ohio Constitution, such that provision for the 2709
payment of debt charges on the obligations, credit enhancement 2710
facilities, or both, the purposes and uses to which and the 2711
manner in which the proceeds of those obligations or credit 2712

enhancement facilities or money from other sources are to be or 2713
may be applied, and other implementation of those development 2714
purposes as referred to in this section, including the manner 2715
determined by an issuer to participate for those purposes, are 2716
not subject to Sections 4 and 6 of Article VIII, Ohio 2717
Constitution. 2718

No obligations may be issued under this section to fund or 2719
pay maintenance and repair costs. 2720

(K) No obligations may be issued under this section unless 2721
the issuer's fiscal officer determines that the net lodging tax 2722
proceeds, net tourism development district revenues, or both, 2723
pledged, assigned, or otherwise obligated to be contributed to 2724
the payment of debt charges on such obligations and all other 2725
obligations issued, outstanding and payable therefrom, are 2726
expected to be sufficient to pay all debt charges on all such 2727
obligations except to any extent that such debt charges are to 2728
be paid from proceeds of obligations or refunding obligations 2729
deposited or to be deposited into a pledged fund or account, 2730
including any reserve fund or account, or investment earnings 2731
thereon. 2732

(L) (1) A board of county commissioners shall not repeal, 2733
rescind, or reduce the levy of an existing lodging tax or the 2734
source of any other revenue to the extent revenue from that tax 2735
or source is pledged to the payment of debt charges on 2736
obligations, and any such lodging tax or other revenue source 2737
shall not be subject to repeal, rescission, or reduction by 2738
initiative, referendum, or subsequent enactment of legislation 2739
by the general assembly, so long as there remain outstanding any 2740
obligations as to which the payment of debt charges is secured 2741
by a pledge of the existing lodging tax or other revenue source. 2742

(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, 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 those net tourism development district revenues.

(3) A transit authority shall not repeal, rescind, or reduce the levy of any tax the proceeds of which 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, 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 the pledge of such tax proceeds.

(M) A pledge, assignment, or other agreement to contribute net lodging tax proceeds or other revenues or credit enhancement facilities made by an eligible county under division (B) or (E) of this section; a pledge, assignment, or other agreement to contribute net tourism development district revenues or credit enhancement facilities made by a host municipality under division (B) or (F) of this section; and a pledge, assignment, or other agreement made by an eligible county or eligible transit authority or agreement to contribute revenue from taxes that constitute tourism development district revenues under division (B), (E), or (G) of this section, do not constitute bonded indebtedness, or indebtedness for the purposes of Chapter 133. of the Revised Code, of an eligible county, eligible

transit authority, or host municipal corporation. 2774

(N) The authority provided by this section is supplemental 2775
to, and is not intended to limit in any way, any legal authority 2776
that a cooperating party or any other person may have under any 2777
other provision of law. 2778

Sec. 307.695. (A) As used in this section: 2779

(1) "Arena" means any structure designed and constructed 2780
for the purpose of providing a venue for public entertainment 2781
and recreation by the presentation of concerts, sporting and 2782
athletic events, and other events and exhibitions, including 2783
facilities intended to house or provide a site for one or more 2784
athletic or sports teams or activities, spectator facilities, 2785
parking facilities, walkways, and auxiliary facilities, real and 2786
personal property, property rights, easements, leasehold 2787
estates, and interests that may be appropriate for, or used in 2788
connection with, the operation of the arena. 2789

(2) "Convention center" means any structure expressly 2790
designed and constructed for the purposes of presenting 2791
conventions, public meetings, and exhibitions and includes 2792
parking facilities that serve the center and any personal 2793
property used in connection with any such structure or 2794
facilities. 2795

(3) "Eligible county" means a county having a population 2796
of at least four hundred thousand but not more than eight 2797
hundred thousand according to the 2000 federal decennial census 2798
and that directly borders the geographic boundaries of another 2799
state. 2800

(4) "Entity" means a nonprofit corporation, a municipal 2801
corporation, a port authority created under Chapter 4582. of the 2802

Revised Code, or a convention facilities authority created under 2803
Chapter 351. of the Revised Code. 2804

(5) "Lodging taxes" means excise taxes levied under 2805
division (A) ~~(1)~~, ~~(A)(2)(B)~~, or ~~(C)~~ (M) of section 5739.09 of the 2806
Revised Code and the revenues arising therefrom. 2807

(6) "Nonprofit corporation" means a nonprofit corporation 2808
that is organized under the laws of this state and that includes 2809
within the purposes for which it is incorporated the 2810
authorization to lease and operate facilities such as a 2811
convention center or an arena or a combination of an arena and 2812
convention center. 2813

(7) "Project" means acquiring, constructing, 2814
reconstructing, renovating, rehabilitating, expanding, adding 2815
to, equipping, furnishing or otherwise improving an arena, a 2816
convention center, or a combination of an arena and convention 2817
center. For purposes of this section, a project is a permanent 2818
improvement for one purpose under Chapter 133. of the Revised 2819
Code. 2820

(8) "Project revenues" means money received by a county 2821
with a population greater than four hundred thousand wherein the 2822
population of the largest city comprises more than one-third of 2823
that county's population, other than money from taxes or from 2824
the proceeds of securities secured by taxes, in connection with, 2825
derived from, related to, or resulting from a project, 2826
including, but not limited to, rentals and other payments 2827
received under a lease or agreement with respect to the project, 2828
ticket charges or surcharges for admission to events at a 2829
project, charges or surcharges for parking for events at a 2830
project, charges for the use of a project or any portion of a 2831
project, including suites and seating rights, the sale of naming 2832

rights for the project or a portion of the project, unexpended 2833
proceeds of any county revenue bonds issued for the project, and 2834
any income and profit from the investment of the proceeds of any 2835
such revenue bonds or any project revenues. 2836

(9) "Chapter 133. securities," "debt charges," "general 2837
obligation," "legislation," "one purpose," "outstanding," 2838
"permanent improvement," "person," and "securities" have the 2839
meanings given to those terms in section 133.01 of the Revised 2840
Code. 2841

(B) A board of county commissioners may enter into an 2842
agreement with a convention and visitors' bureau operating in 2843
the county under which: 2844

(1) The bureau agrees to construct and equip a convention 2845
center in the county and to pledge and contribute from the tax 2846
revenues received by it under division (A) of section 5739.09 of 2847
the Revised Code, not more than such portion thereof that it is 2848
authorized to pledge and contribute for the purpose described in 2849
division (C) of this section; and 2850

(2) The board agrees to levy a tax under division ~~(C)~~ (M) 2851
of section 5739.09 of the Revised Code and pledge and contribute 2852
the revenues therefrom for the purpose described in division (C) 2853
of this section. 2854

(C) The purpose of the pledges and contributions described 2855
in divisions (B)(1) and (2) of this section is payment of 2856
principal, interest, and premium, if any, on bonds and notes 2857
issued by or for the benefit of the bureau to finance the 2858
construction and equipping of a convention center. The pledges 2859
and contributions provided for in the agreement shall be for the 2860
period stated in the agreement. Revenues determined from time to 2861

time by the board to be needed to cover the real and actual 2862
costs of administering the tax imposed ~~by~~ under division ~~(C)~~ (M) 2863
of section 5739.09 of the Revised Code may not be pledged or 2864
contributed. The agreement shall provide that any such bonds and 2865
notes shall be secured by a trust agreement between the bureau 2866
or other issuer acting for the benefit of the bureau and a 2867
corporate trustee that is a trust company or bank having the 2868
powers of a trust company within or without the state, and the 2869
trust agreement shall pledge or assign to the retirement of the 2870
bonds or notes, all moneys paid by the county under this 2871
section. A tax the revenues from which are pledged under an 2872
agreement entered into by a board of county commissioners under 2873
this section shall not be subject to diminution by initiative or 2874
referendum, or diminution by statute, unless provision is made 2875
therein for an adequate substitute therefor reasonably 2876
satisfactory to the trustee under the trust agreement that 2877
secures the bonds and notes. 2878

(D) A pledge of money by a county under division (B) of 2879
this section shall not be indebtedness of the county for 2880
purposes of Chapter 133. of the Revised Code. 2881

(E) If the terms of the agreement so provide, the board of 2882
county commissioners may acquire and lease real property to the 2883
convention bureau as the site of the convention center. The 2884
lease shall be on such terms as are set forth in the agreement. 2885
The purchase and lease are not subject to the limitations of 2886
sections 307.02 and 307.09 of the Revised Code. 2887

(F) In addition to the authority granted to a board of 2888
county commissioners under divisions (B) to (E) of this section, 2889
a board of county commissioners in a county with a population of 2890
one million two hundred thousand or more, or a county with a 2891

population greater than four hundred thousand wherein the 2892
population of the largest city comprises more than one-third of 2893
that county's population, may purchase, for cash or by 2894
installment payments, enter into lease-purchase agreements for, 2895
lease with an option to purchase, lease, construct, enlarge, 2896
improve, rebuild, equip, or furnish a convention center. 2897

(G) The board of county commissioners of a county with a 2898
population greater than four hundred thousand wherein the 2899
population of the largest city comprises more than one-third of 2900
that county's population may undertake, finance, operate, and 2901
maintain a project. The board may lease a project to an entity 2902
on terms that the board determines to be in the best interest of 2903
the county and in furtherance of the public purpose of the 2904
project; the lease may be for a term of thirty-five years or 2905
less and may provide for an option of the entity to renew the 2906
lease for a term of thirty-five years or less. The board may 2907
enter into an agreement with an entity with respect to a project 2908
on terms that the board determines to be in the best interest of 2909
the county and in furtherance of the public purpose of the 2910
project. To the extent provided for in an agreement or a lease 2911
with an entity, the board may authorize the entity to administer 2912
on behalf of the board any contracts for the project. The board 2913
may enter into an agreement providing for the sale to a person 2914
of naming rights to a project or portion of a project, for a 2915
period, for consideration, and on other terms and conditions 2916
that the board determines to be in the best interest of the 2917
county and in furtherance of the public purpose of the project. 2918
The board may enter into an agreement with a person owning or 2919
operating a professional athletic or sports team providing for 2920
the use by that person of a project or portion of a project for 2921
that team's offices, training, practices, and home games for a 2922

period, for consideration, and on other terms and conditions 2923
that the board determines to be in the best interest of the 2924
county and in furtherance of the public purpose of the project. 2925
The board may establish ticket charges or surcharges for 2926
admission to events at a project, charges or surcharges for 2927
parking for events at a project, and charges for the use of a 2928
project or any portion of a project, including suites and 2929
seating rights, and may, as necessary, enter into agreements 2930
related thereto with persons for a period, for consideration, 2931
and on other terms and conditions that the board determines to 2932
be in the best interest of the county and in furtherance of the 2933
public purpose of the project. A lease or agreement authorized 2934
by this division is not subject to sections 307.02, 307.09, and 2935
307.12 of the Revised Code. 2936

(H) Notwithstanding any contrary provision in Chapter 2937
5739. of the Revised Code, after adopting a resolution declaring 2938
it to be in the best interest of the county to undertake a 2939
project as described in division (G) of this section, the board 2940
of county commissioners of an eligible county may adopt a 2941
resolution enacting or increasing any lodging taxes within the 2942
limits specified in Chapter 5739. of the Revised Code with 2943
respect to those lodging taxes and amending any prior resolution 2944
under which any of its lodging taxes have been imposed in order 2945
to provide that those taxes, after deducting the real and actual 2946
costs of administering the taxes and any portion of the taxes 2947
returned to any municipal corporation or township as provided in 2948
division (A) ~~(1)~~ of section 5739.09 of the Revised Code, shall be 2949
used by the board for the purposes of undertaking, financing, 2950
operating, and maintaining the project, including paying debt 2951
charges on any securities issued by the board under division (I) 2952
of this section, or to make contributions to the convention and 2953

visitors' bureau operating within the county, or to promote, 2954
advertise, and market the region in which the county is located, 2955
all as the board may determine and make appropriations for from 2956
time to time, subject to the terms of any pledge to the payment 2957
of debt charges on outstanding general obligation securities or 2958
special obligation securities authorized under division (I) of 2959
this section. A resolution adopted under division (H) of this 2960
section shall be adopted not earlier than January 15, 2007, and 2961
not later than January 15, 2008. 2962

A resolution adopted under division (H) of this section 2963
may direct the board of elections to submit the question of 2964
enacting or increasing lodging taxes, as the case may be, to the 2965
electors of the county at a special election held on the date 2966
specified by the board in the resolution, provided that the 2967
election occurs not less than ninety days after a certified copy 2968
of the resolution is transmitted to the board of elections and 2969
no later than January 15, 2008. A resolution submitted to the 2970
electors under this division shall not go into effect unless it 2971
is approved by a majority of those voting upon it. A resolution 2972
adopted under division (H) of this section that is not submitted 2973
to the electors of the county for their approval or disapproval 2974
is subject to a referendum as provided in sections 305.31 to 2975
305.41 of the Revised Code. 2976

A resolution adopted under division (H) of this section 2977
takes effect upon its adoption, unless the resolution is 2978
submitted to the electors of the county for their approval or 2979
disapproval, in which case the resolution takes effect on the 2980
date the board of county commissioners receives notification 2981
from the board of elections of the affirmative vote. Lodging 2982
taxes received after the effective date of the resolution may be 2983
used for the purposes described in division (H) of this section, 2984

except that lodging taxes that have been pledged to the payment 2985
of debt charges on any bonds or notes issued by or for the 2986
benefit of a convention and visitors' bureau under division (C) 2987
of this section shall be used exclusively for that purpose until 2988
such time as the bonds or notes are no longer outstanding under 2989
the trust agreement securing those bonds or notes. 2990

(I) (1) The board of county commissioners of a county with 2991
a population greater than four hundred thousand wherein the 2992
population of the largest city comprises more than one-third of 2993
that county's population may issue the following securities of 2994
the county for the purpose of paying costs of the project, 2995
refunding any outstanding county securities issued for that 2996
purpose, refunding any outstanding bonds or notes issued by or 2997
for the benefit of the bureau under division (C) of this 2998
section, or for any combination of those purposes: 2999

(a) General obligation securities issued under Chapter 3000
133. of the Revised Code. The resolution authorizing these 3001
securities may include covenants to appropriate annually from 3002
lawfully available lodging taxes, and to continue to levy and 3003
collect those lodging taxes in, amounts necessary to meet the 3004
debt charges on those securities. 3005

(b) Special obligation securities issued under Chapter 3006
133. of the Revised Code that are secured only by lawfully 3007
available lodging taxes and any other taxes and revenues pledged 3008
to pay the debt charges on those securities, except ad valorem 3009
property taxes. The resolution authorizing those securities 3010
shall include a pledge of and covenants to appropriate annually 3011
from lawfully available lodging taxes and any other taxes and 3012
revenues pledged for such purpose, and to continue to collect 3013
any of those revenues pledged for such purpose and to levy and 3014

collect those lodging taxes and any other taxes pledged for such 3015
purpose, in amounts necessary to meet the debt charges on those 3016
securities. The pledge is valid and binding from the time the 3017
pledge is made, and the lodging taxes so pledged and thereafter 3018
received by the county are immediately subject to the lien of 3019
the pledge without any physical delivery of the lodging taxes or 3020
further act. The lien of any pledge is valid and binding as 3021
against all parties having claims of any kind in tort, contract, 3022
or otherwise against the county, regardless of whether such 3023
parties have notice of the lien. Neither the resolution nor any 3024
trust agreement by which a pledge is created or further 3025
evidenced is required to be filed or recorded except in the 3026
records of the board. The special obligation securities shall 3027
contain a statement on their face to the effect that they are 3028
not general obligation securities, and, unless paid from other 3029
sources, are payable from the pledged lodging taxes. 3030

(c) Revenue securities authorized under section 133.08 of 3031
the Revised Code and issued under Chapter 133. of the Revised 3032
Code that are secured only by lawfully available project 3033
revenues pledged to pay the debt charges on those securities. 3034

(2) The securities described in division (I)(1) of this 3035
section are subject to Chapter 133. of the Revised Code. 3036

(3) Section 133.34 of the Revised Code, except for 3037
division (A) of that section, applies to the issuance of any 3038
refunding securities authorized under this division. In lieu of 3039
division (A) of section 133.34 of the Revised Code, the board of 3040
county commissioners shall establish the maturity date or dates, 3041
the interest payable on, and other terms of refunding securities 3042
as it considers necessary or appropriate for their issuance, 3043
provided that the final maturity of refunding securities shall 3044

not exceed by more than ten years the final maturity of any 3045
bonds refunded by refunding securities. 3046

(4) The board may not repeal, rescind, or reduce all or 3047
any portion of any lodging taxes pledged to the payment of debt 3048
charges on any outstanding special obligation securities 3049
authorized under this division, and no portion of any lodging 3050
taxes that is pledged, or that the board has covenanted to levy, 3051
collect, and appropriate annually to pay debt charges on any 3052
outstanding securities authorized under this division is subject 3053
to repeal, rescission, or reduction by the electorate of the 3054
county. 3055

Sec. 319.301. (A) The reductions required by division (D) 3056
of this section do not apply to any of the following: 3057

(1) Taxes levied at whatever rate is required to produce a 3058
specified amount of tax money, including a tax levied under 3059
section 5705.199, ~~5705.211~~, or 5748.09 of the Revised Code, or 3060
an amount to pay debt charges; 3061

(2) Taxes levied within the one per cent limitation 3062
imposed by Section 2 of Article XII, Ohio Constitution; 3063

(3) Taxes provided for by the charter of a municipal 3064
corporation. 3065

(B) As used in this section: 3066

(1) "Real property" includes real property owned by a 3067
railroad. 3068

(2) "Carryover property" means all real property on the 3069
current year's tax list except: 3070

(a) Land and improvements that were not taxed by the 3071
district in both the preceding year and the current year; 3072

(b) Land and improvements that were not in the same class	3073
in both the preceding year and the current year.	3074
(3) "Effective tax rate" means with respect to each class	3075
of property:	3076
(a) The sum of the total taxes that would have been	3077
charged and payable for current expenses against real property	3078
in that class if each of the district's taxes were reduced for	3079
the current year under division (D) (1) of this section without	3080
regard to the application of division (E) (3) of this section	3081
divided by	3082
(b) The taxable value of all real property in that class.	3083
(4) "Taxes charged and payable" means the taxes charged	3084
and payable prior to any reduction required by section 319.302	3085
of the Revised Code.	3086
(C) The tax commissioner shall make the determinations	3087
required by this section each year, without regard to whether a	3088
taxing district has territory in a county to which section	3089
5715.24 of the Revised Code applies for that year. Separate	3090
determinations shall be made for each of the two classes	3091
established pursuant to section 5713.041 of the Revised Code.	3092
(D) With respect to each tax authorized to be levied by	3093
each taxing district, the tax commissioner, annually, shall do	3094
both of the following:	3095
(1) Determine by what percentage, if any, the sums levied	3096
by such tax against the carryover property in each class would	3097
have to be reduced for the tax to levy the same number of	3098
dollars against such property in that class in the current year	3099
as were charged against such property by such tax in the	3100
preceding year subsequent to the reduction made under this	3101

section but before the reduction made under section 319.302 of 3102
the Revised Code. In the case of a tax levied for the first time 3103
that is not a renewal of an existing tax, the commissioner shall 3104
determine by what percentage the sums that would otherwise be 3105
levied by such tax against carryover property in each class 3106
would have to be reduced to equal the amount that would have 3107
been levied if the full rate thereof had been imposed against 3108
the total taxable value of such property in the preceding tax 3109
year. A tax or portion of a tax that is designated a replacement 3110
levy under section 5705.192 of the Revised Code is not a renewal 3111
of an existing tax for purposes of this division. 3112

(2) Certify each percentage determined in division (D) (1) 3113
of this section, as adjusted under division (E) of this section, 3114
and the class of property to which that percentage applies to 3115
the auditor of each county in which the district has territory. 3116
The auditor, after complying with section 319.30 of the Revised 3117
Code, shall reduce the sum to be levied by such tax against each 3118
parcel of real property in the district by the percentage so 3119
certified for its class. Certification shall be made by the 3120
first day of September except in the case of a tax levied for 3121
the first time, in which case certification shall be made within 3122
fifteen days of the date the county auditor submits the 3123
information necessary to make the required determination. 3124

(E) (1) As used in division (E) (2) of this section, "pre- 3125
1982 joint vocational taxes" means, with respect to a class of 3126
property, the difference between the following amounts: 3127

(a) The taxes charged and payable in tax year 1981 against 3128
the property in that class for the current expenses of the joint 3129
vocational school district of which the school district is a 3130
part after making all reductions under this section; 3131

(b) ~~The following percentage~~ Two-tenths of one per cent of 3132
the taxable value of all real property in that class+ 3133

~~(i) In 1987, five one hundredths of one per cent;~~ 3134

~~(ii) In 1988, one-tenth of one per cent;~~ 3135

~~(iii) In 1989, fifteen one hundredths of one per cent;~~ 3136

~~(iv) In 1990 and each subsequent year, two-tenths of one-~~ 3137
~~per cent.~~ 3138

If the amount in division (E) (1) (b) of this section 3139
exceeds the amount in division (E) (1) (a) of this section, the 3140
pre-1982 joint vocational taxes shall be zero. 3141

As used in divisions (E) (2) and (3) of this section, 3142
"taxes charged and payable" has the same meaning as in division 3143
(B) (4) of this section and excludes any tax charged and payable 3144
in 1985 or thereafter under sections 5705.194 to 5705.197 or 3145
section 5705.199, 5705.213, 5705.219, or 5748.09 of the Revised 3146
Code. 3147

(2) If in the case of a school district other than a joint 3148
vocational or cooperative education school district any 3149
percentage required to be used in division (D) (2) of this 3150
section for either class of property could cause the total taxes 3151
charged and payable for current expenses to be less than two per 3152
cent of the taxable value of all real property in that class 3153
that is subject to taxation by the district, the commissioner 3154
shall determine what percentages would cause the district's 3155
total taxes charged and payable for current expenses against 3156
that class, after all reductions that would otherwise be made 3157
under this section, to equal, when combined with the pre-1982 3158
joint vocational taxes against that class, the lesser of the 3159
following: 3160

(a) The sum of the rates at which those taxes are 3161
authorized to be levied; 3162

(b) Two per cent of the taxable value of the property in 3163
that class. The auditor shall use such percentages in making the 3164
reduction required by this section for that class. 3165

(3) ~~(a)~~ If in the case of a joint vocational school 3166
district any percentage required to be used in division (D) (2) 3167
of this section for either class of property could cause the 3168
total taxes charged and payable for current expenses for that 3169
class to be less than ~~the designated amount~~ two-tenths of one per 3170
cent of the taxable value of that class, the commissioner shall 3171
determine what percentages would cause the district's total 3172
taxes charged and payable for current expenses for that class, 3173
after all reductions that would otherwise be made under this 3174
section, to equal ~~the designated~~ that amount. The auditor shall 3175
use such percentages in making the reductions required by this 3176
section for that class. 3177

~~(b) As used in division (E) (3) (a) of this section, the~~ 3178
~~designated amount shall equal the taxable value of all real-~~ 3179
~~property in the class that is subject to taxation by the~~ 3180
~~district times the lesser of the following:~~ 3181

~~(i) Two tenths of one per cent;~~ 3182

~~(ii) The district's effective rate plus the following~~ 3183
~~percentage for the year indicated:~~ 3184

3185

A	WHEN COMPUTING THE	ADD THE FOLLOWING
	TAXES CHARGES FOR	PERCENTAGE:
B	1987	0.025%
C	1988	0.05%
D	1989	0.075%
E	1990	0.1%
F	1991	0.125%
G	1992	0.15%
H	1993	0.175%
I	1994 and thereafter	0.2%

(F) No reduction shall be made under this section in the 3186
rate at which any tax is levied. 3187

(G) The commissioner may order a county auditor to furnish 3188
any information the commissioner needs to make the 3189
determinations required under division (D) or (E) of this 3190
section, and the auditor shall supply the information in the 3191
form and by the date specified in the order. If the auditor 3192
fails to comply with an order issued under this division, except 3193
for good cause as determined by the commissioner, the 3194
commissioner shall withhold from such county or taxing district 3195
therein fifty per cent of state revenues to local governments 3196
pursuant to section 5747.50 of the Revised Code or shall direct 3197
the department of education to withhold therefrom fifty per cent 3198
of state revenues to school districts pursuant to Chapter 3317. 3199

of the Revised Code. The commissioner shall withhold the 3200
distribution of such revenues until the county auditor has 3201
complied with this division, and the department shall withhold 3202
the distribution of such revenues until the commissioner has 3203
notified the department that the county auditor has complied 3204
with this division. 3205

(H) If the commissioner is unable to certify a tax 3206
reduction factor for either class of property in a taxing 3207
district located in more than one county by the last day of 3208
November because information required under division (G) of this 3209
section is unavailable, the commissioner may compute and certify 3210
an estimated tax reduction factor for that district for that 3211
class. The estimated factor shall be based upon an estimate of 3212
the unavailable information. Upon receipt of the actual 3213
information for a taxing district that received an estimated tax 3214
reduction factor, the commissioner shall compute the actual tax 3215
reduction factor and use that factor to compute the taxes that 3216
should have been charged and payable against each parcel of 3217
property for the year for which the estimated reduction factor 3218
was used. The amount by which the estimated factor resulted in 3219
an overpayment or underpayment in taxes on any parcel shall be 3220
added to or subtracted from the amount due on that parcel in the 3221
ensuing tax year. 3222

A percentage or a tax reduction factor determined or 3223
computed by the commissioner under this section shall be used 3224
solely for the purpose of reducing the sums to be levied by the 3225
tax to which it applies for the year for which it was determined 3226
or computed. It shall not be used in making any tax computations 3227
for any ensuing tax year. 3228

(I) In making the determinations under division (D) (1) of 3229

this section, the tax commissioner shall take account of changes 3230
in the taxable value of carryover property resulting from 3231
complaints filed under section 5715.19 of the Revised Code for 3232
determinations made for the tax year in which such changes are 3233
reported to the commissioner. Such changes shall be reported to 3234
the commissioner on the first abstract of real property filed 3235
with the commissioner under section 5715.23 of the Revised Code 3236
following the date on which the complaint is finally determined 3237
by the board of revision or by a court or other authority with 3238
jurisdiction on appeal. The tax commissioner shall account for 3239
such changes in making the determinations only for the tax year 3240
in which the change in valuation is reported. Such a valuation 3241
change shall not be used to recompute the percentages determined 3242
under division (D) (1) of this section for any prior tax year. 3243

Sec. 321.03. At the request of the county treasurer, a 3244
board of county commissioners may enter into a contract with any 3245
financial institution under which the financial institution, in 3246
accordance with the terms of the contract, receives at a post 3247
office box any type of payment or fee owed or payable to the 3248
county, opens the mail delivered to that box, processes the 3249
checks and other payments received in such mail and deposits 3250
them into the treasurer's account, and provides the county~~y~~ 3251
treasurer daily receipt information with respect to such 3252
payments. The contract may provide for the financial institution 3253
to receive at the post office box those payments and fees 3254
specifically named in the contract or all payments and fees 3255
payable to the county, including, but not limited to, utility, 3256
sewer, water, refuse collection, waste disposal, and airport 3257
fees, but in any case excluding taxes. The contract shall not be 3258
entered into unless: 3259

(A) There is attached to the contract a certification by 3260

the auditor of state that the financial institution and the 3261
treasurer have given assurances satisfactory to the auditor of 3262
state that the records of the financial institution, to the 3263
extent that they relate to payments covered by the contract, 3264
shall be subject to examination by the auditor of state to the 3265
same extent as if the services that the financial institution 3266
has agreed to perform were being performed by the treasurer. 3267

(B) The contract is awarded in accordance with sections 3268
307.86 to 307.92 of the Revised Code. 3269

(C) The treasurer's surety bond includes within its 3270
coverage any loss that might occur as the result of the 3271
contract. 3272

(D) The provisions of the contract do not conflict with 3273
accounting and reporting requirements prescribed by the auditor 3274
of state. 3275

Sec. 321.20. On the first day of each month in each year, 3276
the county treasurer shall deposit with the county auditor all 3277
warrants ~~he the treasurer has redeemed~~ redeemed and take the 3278
auditor's receipt for them. 3279

Sec. 323.154. The county auditor shall approve or deny an 3280
application for reduction under section 323.152 of the Revised 3281
Code and shall so notify the applicant ~~not later than the first~~ 3282
Monday in October within thirty days after the application is 3283
approved or denied. Notification shall be provided on a form 3284
prescribed by the tax commissioner. If the application is 3285
approved, upon issuance of the notification the county auditor 3286
shall record the amount of reduction in taxes in the appropriate 3287
column on the general tax list and duplicate of real and public 3288
utility property and on the manufactured home tax list. If the 3289

application is denied, the notification shall inform the 3290
applicant of the reasons for the denial. 3291

If an applicant believes that the application for 3292
reduction has been improperly denied or that the reduction is 3293
for less than that to which the applicant is entitled, the 3294
applicant may file an appeal with the county board of revision 3295
not later than ~~the date of closing of the collection for the~~ 3296
~~first half of real and public utility property taxes or~~ 3297
~~manufactured home taxes~~ sixty days after the notification was 3298
issued under this section. The appeal shall be treated in the 3299
same manner as a complaint relating to the valuation or 3300
assessment of real property under Chapter 5715. of the Revised 3301
Code. 3302

Sec. 323.155. The tax bill prescribed under section 3303
323.131 of the Revised Code shall indicate the net amount of 3304
taxes due following the reductions in taxes under sections 3305
319.301, 319.302, 323.152, and 323.16 of the Revised Code. 3306

Any reduction in taxes under section 323.152 of the 3307
Revised Code shall be disregarded as income or resources in 3308
determining eligibility for any program or calculating any 3309
payment under Title LI of the Revised Code. 3310

Sec. 351.01. As used in this chapter: 3311

(A) "Convention facilities authority" means a body 3312
corporate and politic created pursuant to section 351.02 of the 3313
Revised Code. 3314

(B) "Governmental agency" means a department, division, or 3315
other unit of the state government or of a municipal 3316
corporation, county, township, or other political subdivision of 3317
the state; any state university or college, as defined in 3318

section 3345.12 of the Revised Code, community college, state 3319
community college, university branch, or technical college; any 3320
other public corporation or agency having the power to acquire, 3321
construct, or operate facilities; the United States or any 3322
agency thereof; and any agency, commission, or authority 3323
established pursuant to an interstate compact or agreement. 3324

(C) "Person" means any individual, firm, partnership, 3325
association, or corporation, or any combination of them. 3326

(D) "Facility" or "facilities" means any convention, 3327
entertainment, or sports facility, or combination of them, 3328
located within the territory of the convention facilities 3329
authority, together with all hotels, parking facilities, 3330
walkways, and other auxiliary facilities, real and personal 3331
property, property rights, easements and interests that may be 3332
appropriate for, or used in connection with, the operation of 3333
the facility. 3334

(E) "Cost" means the cost of acquisition of all land, 3335
rights-of-way, property rights, easements, franchise rights, and 3336
interests required for such acquisition; the cost of demolishing 3337
or removing any buildings or structures on land so acquired, 3338
including the cost of acquiring any lands to which such 3339
buildings or structures may be moved; the cost of acquiring or 3340
constructing and equipping a principal office of the convention 3341
facilities authority; the cost of diverting highways, 3342
interchange of highways, access roads to private property, 3343
including the cost of land or easements for such access roads; 3344
the cost of public utility and common carrier relocation or 3345
duplication; the cost of all machinery, furnishings, and 3346
equipment; financing charges; interest prior to and during 3347
construction and for no more than eighteen months after 3348

completion of construction; expenses of research and development 3349
with respect to facilities; legal expenses; expenses of 3350
obtaining plans, specifications, engineering surveys, studies, 3351
and estimates of cost and revenues; working capital; expenses 3352
necessary or incident to determining the feasibility or 3353
practicability of acquiring or constructing such facility; 3354
administrative expense; and such other expenses as may be 3355
necessary or incident to the acquisition or construction of the 3356
facility, the financing of such acquisition or construction, 3357
including the amount authorized in the resolution of the 3358
convention facilities authority providing for the issuance of 3359
convention facilities authority revenue bonds to be paid into 3360
any special funds from the proceeds of such bonds, the cost of 3361
issuing the bonds, and the financing of the placing of such 3362
facility in operation. Any obligation, cost, or expense incurred 3363
by any governmental agency or person for surveys, borings, 3364
preparation of plans and specifications, and other engineering 3365
services, or any other cost described above, in connection with 3366
the acquisition or construction of a facility may be regarded as 3367
part of the cost of such facility and may be reimbursed out of 3368
the proceeds of convention facilities authority revenue bonds as 3369
authorized by this chapter. 3370

(F) "Owner" includes a person having any title or interest 3371
in any property, rights, easements, or interests authorized to 3372
be acquired by Chapter 351. of the Revised Code. 3373

(G) "Revenues" means all rentals and other charges 3374
received by the convention facilities authority for the use or 3375
services of any facility, the sale of any merchandise, or the 3376
operation of any concessions; any gift or grant received with 3377
respect to any facility, any moneys received with respect to the 3378
lease, sublease, sale, including installment sale or conditional 3379

sale, or other disposition of a facility or part thereof; moneys 3380
received in repayment of and for interest on any loans made by 3381
the authority to a person or governmental agency, whether from 3382
the United States or any department, administration, or agency 3383
thereof, or otherwise; proceeds of convention facilities 3384
authority revenue bonds to the extent the use thereof for 3385
payment of principal or of premium, if any, or interest on the 3386
bonds is authorized by the authority; proceeds from any 3387
insurance, appropriation, or guaranty pertaining to a facility 3388
or property mortgaged to secure bonds or pertaining to the 3389
financing of the facility; income and profit from the investment 3390
of the proceeds of convention facilities authority revenue bonds 3391
or of any revenues; contributions of the proceeds of a tax 3392
levied pursuant to division ~~(A)(3)~~ (C) of section 5739.09 of the 3393
Revised Code; and moneys transmitted to the authority pursuant 3394
to division (B) of section 5739.211 and division (B) of section 3395
5741.031 of the Revised Code. 3396

(H) "Public roads" includes all public highways, roads, 3397
and streets in the state, whether maintained by the state, 3398
county, city, township, or other political subdivision. 3399

(I) "Construction," unless the context indicates a 3400
different meaning or intent, includes, but is not limited to, 3401
reconstruction, enlargement, improvement, or providing fixtures, 3402
furnishings, and equipment. 3403

(J) "Convention facilities authority revenue bonds" or 3404
"revenue bonds," unless the context indicates a different 3405
meaning or intent, includes convention facilities authority 3406
revenue notes, convention facilities authority revenue renewal 3407
notes, and convention facilities authority revenue refunding 3408
bonds. 3409

(K) "Convention facilities authority tax anticipation bonds" or "tax anticipation bonds," unless the context indicates a different meaning, includes convention facilities authority tax anticipation bonds, tax anticipation notes, tax anticipation renewal notes, and tax anticipation refunding bonds.

(L) "Bonds and notes" means convention facilities authority revenue bonds and convention facilities authority tax anticipation bonds.

(M) "Territory of the authority" means all of the area of the county creating the convention facilities authority.

(N) "Excise taxes" means any of the taxes levied pursuant to division (B) or (C) of section 351.021 of the Revised Code. "Excise taxes" does not include taxes levied pursuant to section 4301.424, 5743.026, or 5743.324 of the Revised Code.

(O) "Transaction" means the charge by a hotel for each occupancy by transient guests of a room or suite of rooms used in a hotel as a single unit for any period of twenty-four hours or less.

(P) "Hotel" and "transient guests" have the same meanings as in section 5739.01 of the Revised Code.

(Q) "Sports facility" means a facility intended to house major league professional athletic teams.

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

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

operation of the authority. 3438

(B) Subject to making due provisions for payment and 3439
performance of its obligations, a convention facilities 3440
authority may be dissolved by the county creating it. In such 3441
event the properties of the authority shall be transferred to 3442
the county creating it, and the county may thereupon appropriate 3443
and expend public funds to finance or subsidize the operation of 3444
such facilities. 3445

Sec. 351.141. A convention facilities authority that 3446
levies any of the excise taxes authorized by division (B) or (C) 3447
of section 351.021 of the Revised Code or that receives 3448
contributions pursuant to division ~~(A)(3)~~ (C) of section 5739.09 3449
of the Revised Code, by resolution may anticipate the proceeds 3450
of the levy and issue convention facilities authority tax 3451
anticipation bonds, and notes anticipating the proceeds or the 3452
bonds, in the principal amount that, in the opinion of the 3453
authority, are necessary for the purpose of paying the cost of 3454
one or more facilities or parts of one or more facilities, and 3455
as able, with the interest on them, be paid over the term of the 3456
issue, or in the case of notes anticipating bonds over the term 3457
of the bonds, by the estimated amount of the excise taxes or 3458
contributions anticipated thereby. The excise taxes or 3459
contributions are determined by the general assembly to satisfy 3460
any applicable requirement of Section 11 of Article XII, Ohio 3461
Constitution. An authority, at any time, may issue renewal tax 3462
anticipation notes, issue tax anticipation bonds to pay such 3463
notes, and, whenever it considers refunding expedient, refund 3464
any tax anticipation bonds by the issuance of tax anticipation 3465
refunding bonds whether the bonds to be refunded have or have 3466
not matured, and issue tax anticipation bonds partly to refund 3467
bonds then outstanding and partly for any other authorized 3468

purpose. The refunding bonds shall be sold and the proceeds 3469
needed for such purpose applied in the manner provided in the 3470
bond proceedings to the purchase, redemption, or payment of the 3471
bonds to be refunded. 3472

Every issue of outstanding tax anticipation bonds shall be 3473
payable out of the proceeds of the excise taxes or contributions 3474
anticipated and other revenues of the authority that are pledged 3475
for such payment. The pledge shall be valid and binding from the 3476
time the pledge is made, and the anticipated excise taxes, 3477
contributions, and revenues so pledged and thereafter received 3478
by the authority immediately shall be subject to the lien of 3479
that pledge without any physical delivery of those excise taxes, 3480
contributions, and revenues or further act. The lien of any 3481
pledge is valid and binding as against all parties having claims 3482
of any kind in tort, contract, or otherwise against the 3483
authority, whether or not such parties have notice of the lien. 3484
Neither the resolution nor any trust agreement by which a pledge 3485
is created need be filed or recorded except in the authority's 3486
records. 3487

Whether or not the bonds or notes are of such form and 3488
character as to be negotiable instruments under Title XIII of 3489
the Revised Code, the bonds or notes shall have all the 3490
qualities and incidents of negotiable instruments, subject only 3491
to their provisions for registration, if any. 3492

The tax anticipation bonds shall bear such date or dates, 3493
and shall mature at such time or times, in the case of any such 3494
notes or any renewals of such notes not exceeding twenty years 3495
from the date of issue of such original notes and in the case of 3496
any such bonds or any refunding bonds not exceeding forty years 3497
from the date of the original issue of notes or bonds for the 3498

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

Any resolution or resolutions authorizing any tax 3518
anticipation bonds or any issue of tax anticipation bonds may 3519
contain provisions, subject to any agreements with bondholders 3520
as may then exist, which provisions shall be a part of the 3521
contract with the holders of the bonds, as to the pledging of 3522
any or all of the authority's anticipated excise taxes, 3523
contributions, and revenues to secure the payment of the bonds 3524
or of any issue of the bonds; the use and disposition of 3525
revenues of the authority; the crediting of the proceeds of the 3526
sale of bonds to and among the funds referred to or provided for 3527
in the resolution; limitations on the purpose to which the 3528
proceeds of sale of the bonds may be applied and the pledging of 3529

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

Neither the members of the board of directors of the 3552
authority nor any person executing the bonds shall be liable 3553
personally on the bonds or be subject to any personal liability 3554
or accountability by reason of the issuance thereof. 3555

Sec. 718.01. Any term used in this chapter that is not 3556
otherwise defined in this chapter has the same meaning as when 3557
used in a comparable context in laws of the United States 3558
relating to federal income taxation or in Title LVII of the 3559
Revised Code, unless a different meaning is clearly required. 3560

Except as provided in section 718.81 of the Revised Code, if a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Revised Code.

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

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

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

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

(ii) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals

who are not residents of the qualified municipal corporation and 3590
net profit of persons that are not wholly located within the 3591
qualified municipal corporation, such individual or person shall 3592
have no municipal taxable income for the purposes of the tax 3593
levied by the qualified municipal corporation and may be 3594
exempted by the qualified municipal corporation from the 3595
requirements of section 718.03 of the Revised Code. 3596

(c) For an individual who is a nonresident of a municipal 3597
corporation, income reduced by exempt income to the extent 3598
otherwise included in income and then, as applicable, 3599
apportioned or situated to the municipal corporation under 3600
section 718.02 of the Revised Code, then reduced as provided in 3601
division (A) (2) of this section, and further reduced by any pre- 3602
2017 net operating loss carryforward available to the individual 3603
for the municipal corporation. 3604

(2) In computing the municipal taxable income of a 3605
taxpayer who is an individual, the taxpayer may subtract, as 3606
provided in division (A) (1) (b) (i) or (c) of this section, the 3607
amount of the individual's employee business expenses reported 3608
on the individual's form 2106 that the individual deducted for 3609
federal income tax purposes for the taxable year, subject to the 3610
limitation imposed by section 67 of the Internal Revenue Code. 3611
For the municipal corporation in which the taxpayer is a 3612
resident, the taxpayer may deduct all such expenses allowed for 3613
federal income tax purposes. For a municipal corporation in 3614
which the taxpayer is not a resident, the taxpayer may deduct 3615
such expenses only to the extent the expenses are related to the 3616
taxpayer's performance of personal services in that nonresident 3617
municipal corporation. 3618

(B) "Income" means the following: 3619

(1) (a) For residents, all income, salaries, qualifying 3620
wages, commissions, and other compensation from whatever source 3621
earned or received by the resident, including the resident's 3622
distributive share of the net profit of pass-through entities 3623
owned directly or indirectly by the resident and any net profit 3624
of the resident, except as provided in division (D) (5) of this 3625
section. 3626

(b) For the purposes of division (B) (1) (a) of this 3627
section: 3628

(i) Any net operating loss of the resident incurred in the 3629
taxable year and the resident's distributive share of any net 3630
operating loss generated in the same taxable year and 3631
attributable to the resident's ownership interest in a pass- 3632
through entity shall be allowed as a deduction, for that taxable 3633
year and the following five taxable years, against any other net 3634
profit of the resident or the resident's distributive share of 3635
any net profit attributable to the resident's ownership interest 3636
in a pass-through entity until fully utilized, subject to 3637
division (B) (1) (d) of this section; 3638

(ii) The resident's distributive share of the net profit 3639
of each pass-through entity owned directly or indirectly by the 3640
resident shall be calculated without regard to any net operating 3641
loss that is carried forward by that entity from a prior taxable 3642
year and applied to reduce the entity's net profit for the 3643
current taxable year. 3644

(c) Division (B) (1) (b) of this section does not apply with 3645
respect to any net profit or net operating loss attributable to 3646
an ownership interest in an S corporation unless shareholders' 3647
distributive shares of net profits from S corporations are 3648
subject to tax in the municipal corporation as provided in 3649

division (C) (14) (b) or (c) of this section. 3650

(d) Any amount of a net operating loss used to reduce a 3651
taxpayer's net profit for a taxable year shall reduce the amount 3652
of net operating loss that may be carried forward to any 3653
subsequent year for use by that taxpayer. In no event shall the 3654
cumulative deductions for all taxable years with respect to a 3655
taxpayer's net operating loss exceed the original amount of that 3656
net operating loss available to that taxpayer. 3657

(2) In the case of nonresidents, all income, salaries, 3658
qualifying wages, commissions, and other compensation from 3659
whatever source earned or received by the nonresident for work 3660
done, services performed or rendered, or activities conducted in 3661
the municipal corporation, including any net profit of the 3662
nonresident, but excluding the nonresident's distributive share 3663
of the net profit or loss of only pass-through entities owned 3664
directly or indirectly by the nonresident. 3665

(3) For taxpayers that are not individuals, net profit of 3666
the taxpayer; 3667

(4) Lottery, sweepstakes, gambling and sports winnings, 3668
winnings from games of chance, and prizes and awards. If the 3669
taxpayer is a professional gambler for federal income tax 3670
purposes, the taxpayer may deduct related wagering losses and 3671
expenses to the extent authorized under the Internal Revenue 3672
Code and claimed against such winnings. 3673

(C) "Exempt income" means all of the following: 3674

(1) The military pay or allowances of members of the armed 3675
forces of the United States or members of their reserve 3676
components, including the national guard of any state; 3677

(2) (a) Except as provided in division (C) (2) (b) of this 3678

section, intangible income; 3679

(b) A municipal corporation that taxed any type of 3680
intangible income on March 29, 1988, pursuant to Section 3 of 3681
S.B. 238 of the 116th general assembly, may continue to tax that 3682
type of income if a majority of the electors of the municipal 3683
corporation voting on the question of whether to permit the 3684
taxation of that type of intangible income after 1988 voted in 3685
favor thereof at an election held on November 8, 1988. 3686

(3) Social security benefits, railroad retirement 3687
benefits, unemployment compensation, pensions, retirement 3688
benefit payments, payments from annuities, and similar payments 3689
made to an employee or to the beneficiary of an employee under a 3690
retirement program or plan, disability payments received from 3691
private industry or local, state, or federal governments or from 3692
charitable, religious or educational organizations, and the 3693
proceeds of sickness, accident, or liability insurance policies. 3694
As used in division (C)(3) of this section, "unemployment 3695
compensation" does not include supplemental unemployment 3696
compensation described in section 3402(o)(2) of the Internal 3697
Revenue Code. 3698

(4) The income of religious, fraternal, charitable, 3699
scientific, literary, or educational institutions to the extent 3700
such income is derived from tax-exempt real estate, tax-exempt 3701
tangible or intangible property, or tax-exempt activities. 3702

(5) Compensation paid under section 3501.28 or 3501.36 of 3703
the Revised Code to a person serving as a precinct election 3704
official to the extent that such compensation does not exceed 3705
one thousand dollars for the taxable year. Such compensation in 3706
excess of one thousand dollars for the taxable year may be 3707
subject to taxation by a municipal corporation. A municipal 3708

corporation shall not require the payer of such compensation to	3709
withhold any tax from that compensation.	3710
(6) Dues, contributions, and similar payments received by	3711
charitable, religious, educational, or literary organizations or	3712
labor unions, lodges, and similar organizations;	3713
(7) Alimony and child support received;	3714
(8) Compensation for personal injuries or for damages to	3715
property from insurance proceeds or otherwise, excluding	3716
compensation paid for lost salaries or wages or compensation	3717
from punitive damages;	3718
(9) Income of a public utility when that public utility is	3719
subject to the tax levied under section 5727.24 or 5727.30 of	3720
the Revised Code. Division (C) (9) of this section does not apply	3721
for purposes of Chapter 5745. of the Revised Code.	3722
(10) Gains from involuntary conversions, interest on	3723
federal obligations, items of income subject to a tax levied by	3724
the state and that a municipal corporation is specifically	3725
prohibited by law from taxing, and income of a decedent's estate	3726
during the period of administration except such income from the	3727
operation of a trade or business;	3728
(11) Compensation or allowances excluded from federal	3729
gross income under section 107 of the Internal Revenue Code;	3730
(12) Employee compensation that is not qualifying wages as	3731
defined in division (R) of this section;	3732
(13) Compensation paid to a person employed within the	3733
boundaries of a United States air force base under the	3734
jurisdiction of the United States air force that is used for the	3735
housing of members of the United States air force and is a	3736

center for air force operations, unless the person is subject to 3737
taxation because of residence or domicile. If the compensation 3738
is subject to taxation because of residence or domicile, tax on 3739
such income shall be payable only to the municipal corporation 3740
of residence or domicile. 3741

(14) (a) Except as provided in division (C) (14) (b) or (c) 3742
of this section, an S corporation shareholder's distributive 3743
share of net profits of the S corporation, other than any part 3744
of the distributive share of net profits that represents wages 3745
as defined in section 3121(a) of the Internal Revenue Code or 3746
net earnings from self-employment as defined in section 1402(a) 3747
of the Internal Revenue Code. 3748

(b) If, pursuant to division (H) of former section 718.01 3749
of the Revised Code as it existed before March 11, 2004, a 3750
majority of the electors of a municipal corporation voted in 3751
favor of the question at an election held on November 4, 2003, 3752
the municipal corporation may continue after 2002 to tax an S 3753
corporation shareholder's distributive share of net profits of 3754
an S corporation. 3755

(c) If, on December 6, 2002, a municipal corporation was 3756
imposing, assessing, and collecting a tax on an S corporation 3757
shareholder's distributive share of net profits of the S 3758
corporation to the extent the distributive share would be 3759
allocated or apportioned to this state under divisions (B) (1) 3760
and (2) of section 5733.05 of the Revised Code if the S 3761
corporation were a corporation subject to taxes imposed under 3762
Chapter 5733. of the Revised Code, the municipal corporation may 3763
continue to impose the tax on such distributive shares to the 3764
extent such shares would be so allocated or apportioned to this 3765
state only until December 31, 2004, unless a majority of the 3766

electors of the municipal corporation voting on the question of 3767
continuing to tax such shares after that date voted in favor of 3768
that question at an election held November 2, 2004. If a 3769
majority of those electors voted in favor of the question, the 3770
municipal corporation may continue after December 31, 2004, to 3771
impose the tax on such distributive shares only to the extent 3772
such shares would be so allocated or apportioned to this state. 3773

(d) A municipal corporation shall be deemed to have 3774
elected to tax S corporation shareholders' distributive shares 3775
of net profits of the S corporation in the hands of the 3776
shareholders if a majority of the electors of a municipal 3777
corporation voted in favor of a question at an election held 3778
under division (C) (14) (b) or (c) of this section. The municipal 3779
corporation shall specify by resolution or ordinance that the 3780
tax applies to the distributive share of a shareholder of an S 3781
corporation in the hands of the shareholder of the S 3782
corporation. 3783

(15) To the extent authorized under a resolution or 3784
ordinance adopted by a municipal corporation before January 1, 3785
2016, all or a portion of the income of individuals or a class 3786
of individuals under eighteen years of age. 3787

(16) (a) Except as provided in divisions (C) (16) (b), (c), 3788
and (d) of this section, qualifying wages described in division 3789
(B) (1) or (E) of section 718.011 of the Revised Code to the 3790
extent the qualifying wages are not subject to withholding for 3791
the municipal corporation under either of those divisions. 3792

(b) The exemption provided in division (C) (16) (a) of this 3793
section does not apply with respect to the municipal corporation 3794
in which the employee resided at the time the employee earned 3795
the qualifying wages. 3796

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

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

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

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

(17)(a) Except as provided in division (C)(17)(b) or (c) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipal corporation on not more than twenty days in a taxable year.

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

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

(ii) The individual is a professional athlete, 3826
professional entertainer, or public figure, and the compensation 3827
is paid for the performance of services in the individual's 3828
capacity as a professional athlete, professional entertainer, or 3829
public figure. For purposes of division (C)(17)(b)(ii) of this 3830
section, "professional athlete," "professional entertainer," and 3831
"public figure" have the same meanings as in section 718.011 of 3832
the Revised Code. 3833

(c) Compensation to which division (C)(17) of this section 3834
applies shall be treated as earned or received at the 3835
individual's base of operation. If the individual does not have 3836
a base of operation, the compensation shall be treated as earned 3837
or received where the individual is domiciled. 3838

(d) For purposes of division (C)(17) of this section, 3839
"base of operation" means the location where an individual owns 3840
or rents an office, storefront, or similar facility to which the 3841
individual regularly reports and at which the individual 3842
regularly performs personal services for compensation. 3843

(18) Compensation paid to a person for personal services 3844
performed for a political subdivision on property owned by the 3845
political subdivision, regardless of whether the compensation is 3846
received by an employee of the subdivision or another person 3847
performing services for the subdivision under a contract with 3848
the subdivision, if the property on which services are performed 3849
is annexed to a municipal corporation pursuant to section 3850
709.023 of the Revised Code on or after March 27, 2013, unless 3851
the person is subject to such taxation because of residence. If 3852
the compensation is subject to taxation because of residence, 3853
municipal income tax shall be payable only to the municipal 3854
corporation of residence. 3855

(19) In the case of a tax administered, collected, and 3856
enforced by a municipal corporation pursuant to an agreement 3857
with the board of directors of a joint economic development 3858
district under section 715.72 of the Revised Code, the net 3859
profits of a business, and the income of the employees of that 3860
business, exempted from the tax under division (Q) of that 3861
section. 3862

(20) All of the following: 3863

(a) Income derived from disaster work conducted in this 3864
state by an out-of-state disaster business during a disaster 3865
response period pursuant to a qualifying solicitation received 3866
by the business; 3867

(b) Income of a qualifying employee described in division 3868
(A) (14) (a) of section 5703.94 of the Revised Code, to the extent 3869
such income is derived from disaster work conducted in this 3870
state by the employee during a disaster response period pursuant 3871
to a qualifying solicitation received by the employee's 3872
employer; 3873

(c) Income of a qualifying employee described in division 3874
(A) (14) (b) 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 on 3877
critical infrastructure owned or used by the employee's 3878
employer. 3879

(21) Income the taxation of which is prohibited by the 3880
constitution or laws of the United States. 3881

Any item of income that is exempt income of a pass-through 3882
entity under division (C) of this section is exempt income of 3883
each owner of the pass-through entity to the extent of that 3884

owner's distributive or proportionate share of that item of the 3885
entity's income. 3886

(D) (1) "Net profit" for a person who is an individual 3887
means the individual's net profit required to be reported on 3888
schedule C, schedule E, or schedule F reduced by any net 3889
operating loss carried forward. For the purposes of division (D) 3890
(1) of this section, the net operating loss carried forward 3891
shall be calculated and deducted in the same manner as provided 3892
in division (D) (3) of this section. 3893

(2) "Net profit" for a person other than an individual 3894
means adjusted federal taxable income reduced by any net 3895
operating loss incurred by the person in a taxable year 3896
beginning on or after January 1, 2017, subject to the 3897
limitations of division (D) (3) of this section. 3898

(3) (a) The amount of such net operating loss shall be 3899
deducted from net profit to the extent necessary to reduce 3900
municipal taxable income to zero, with any remaining unused 3901
portion of the net operating loss carried forward to not more 3902
than five consecutive taxable years following the taxable year 3903
in which the loss was incurred, but in no case for more years 3904
than necessary for the deduction to be fully utilized. 3905

(b) No person shall use the deduction allowed by division 3906
(D) (3) of this section to offset qualifying wages. 3907

(c) (i) For taxable years beginning in 2018, 2019, 2020, 3908
2021, or 2022, a person may not deduct, for purposes of an 3909
income tax levied by a municipal corporation that levies an 3910
income tax before January 1, 2016, more than fifty per cent of 3911
the amount of the deduction otherwise allowed by division (D) (3) 3912
of this section. 3913

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

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

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

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

(5) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (D) (5) of this section shall be taxed as if the

partnership were a C corporation, and shall not be treated as 3944
the net profit or income of any owner of the partnership. 3945

A publicly traded partnership that is treated as a 3946
partnership for federal income tax purposes and that is subject 3947
to tax on its net profits in one or more municipal corporations 3948
in this state may elect to be treated as a C corporation for 3949
municipal income tax purposes. The publicly traded partnership 3950
shall make the election in every municipal corporation in which 3951
the partnership is subject to taxation on its net profits. The 3952
election shall be made on the annual tax return filed in each 3953
such municipal corporation. The publicly traded partnership 3954
shall not be required to file the election with any municipal 3955
corporation in which the partnership is not subject to taxation 3956
on its net profits, but division (D)(5) of this section applies 3957
to all municipal corporations in which an individual owner of 3958
the partnership resides. 3959

(E) "Adjusted federal taxable income," for a person 3960
required to file as a C corporation, or for a person that has 3961
elected to be taxed as a C corporation under division (D)(5) of 3962
this section, means a C corporation's federal taxable income 3963
before net operating losses and special deductions as determined 3964
under the Internal Revenue Code, adjusted as follows: 3965

(1) Deduct intangible income to the extent included in 3966
federal taxable income. The deduction shall be allowed 3967
regardless of whether the intangible income relates to assets 3968
used in a trade or business or assets held for the production of 3969
income. 3970

(2) Add an amount equal to five per cent of intangible 3971
income deducted under division (E)(1) of this section, but 3972
excluding that portion of intangible income directly related to 3973

the sale, exchange, or other disposition of property described	3974
in section 1221 of the Internal Revenue Code;	3975
(3) Add any losses allowed as a deduction in the	3976
computation of federal taxable income if the losses directly	3977
relate to the sale, exchange, or other disposition of an asset	3978
described in section 1221 or 1231 of the Internal Revenue Code;	3979
(4) (a) Except as provided in division (E) (4) (b) of this	3980
section, deduct income and gain included in federal taxable	3981
income to the extent the income and gain directly relate to the	3982
sale, exchange, or other disposition of an asset described in	3983
section 1221 or 1231 of the Internal Revenue Code;	3984
(b) Division (E) (4) (a) of this section does not apply to	3985
the extent the income or gain is income or gain described in	3986
section 1245 or 1250 of the Internal Revenue Code.	3987
(5) Add taxes on or measured by net income allowed as a	3988
deduction in the computation of federal taxable income;	3989
(6) In the case of a real estate investment trust or	3990
regulated investment company, add all amounts with respect to	3991
dividends to, distributions to, or amounts set aside for or	3992
credited to the benefit of investors and allowed as a deduction	3993
in the computation of federal taxable income;	3994
(7) Deduct, to the extent not otherwise deducted or	3995
excluded in computing federal taxable income, any income derived	3996
from a transfer agreement or from the enterprise transferred	3997
under that agreement under section 4313.02 of the Revised Code;	3998
(8) Deduct exempt income to the extent not otherwise	3999
deducted or excluded in computing adjusted federal taxable	4000
income.	4001

(9) Deduct any net profit of a pass-through entity owned 4002
directly or indirectly by the taxpayer and included in the 4003
taxpayer's federal taxable income unless an affiliated group of 4004
corporations includes that net profit in the group's federal 4005
taxable income in accordance with division (E) (3) (b) of section 4006
718.06 of the Revised Code. 4007

(10) Add any loss incurred by 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 loss in the group's federal taxable 4011
income in accordance with division (E) (3) (b) of section 718.06 4012
of the Revised Code. 4013

If the taxpayer is not a C corporation, is not a 4014
disregarded entity that has made the election described in 4015
division (L) (2) of this section, is not a publicly traded 4016
partnership that has made the election described in division (D) 4017
(5) of this section, and is not an individual, the taxpayer 4018
shall compute adjusted federal taxable income under this section 4019
as if the taxpayer were a C corporation, except guaranteed 4020
payments and other similar amounts paid or accrued to a partner, 4021
former partner, shareholder, former shareholder, member, or 4022
former member shall not be allowed as a deductible expense 4023
unless such payments are in consideration for the use of capital 4024
and treated as payment of interest under section 469 of the 4025
Internal Revenue Code or United States treasury regulations. 4026
Amounts paid or accrued to a qualified self-employed retirement 4027
plan with respect to a partner, former partner, shareholder, 4028
former shareholder, member, or former member of the taxpayer, 4029
amounts paid or accrued to or for health insurance for a 4030
partner, former partner, shareholder, former shareholder, 4031
member, or former member, and amounts paid or accrued to or for 4032

life insurance for a partner, former partner, shareholder, 4033
former shareholder, member, or former member shall not be 4034
allowed as a deduction. 4035

Nothing in division (E) of this section shall be construed 4036
as allowing the taxpayer to add or deduct any amount more than 4037
once or shall be construed as allowing any taxpayer to deduct 4038
any amount paid to or accrued for purposes of federal self- 4039
employment tax. 4040

(F) "Schedule C" means internal revenue service schedule C 4041
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4042
Code. 4043

(G) "Schedule E" means internal revenue service schedule E 4044
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 4045
Code. 4046

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

(I) "Internal Revenue Code" has the same meaning as in 4050
section 5747.01 of the Revised Code. 4051

(J) "Resident" means an individual who is domiciled in the 4052
municipal corporation as determined under section 718.012 of the 4053
Revised Code. 4054

(K) "Nonresident" means an individual that is not a 4055
resident. 4056

(L) (1) "Taxpayer" means a person subject to a tax levied 4057
on income by a municipal corporation in accordance with this 4058
chapter. "Taxpayer" does not include a grantor trust or, except 4059
as provided in division (L) (2) (a) of this section, a disregarded 4060

entity. 4061

(2) (a) A single member limited liability company that is a 4062
disregarded entity for federal tax purposes may be a separate 4063
taxpayer from its single member in all Ohio municipal 4064
corporations in which it either filed as a separate taxpayer or 4065
did not file for its taxable year ending in 2003, if all of the 4066
following conditions are met: 4067

(i) The limited liability company's single member is also 4068
a limited liability company. 4069

(ii) The limited liability company and its single member 4070
were formed and doing business in one or more Ohio municipal 4071
corporations for at least five years before January 1, 2004. 4072

(iii) Not later than December 31, 2004, the limited 4073
liability company and its single member each made an election to 4074
be treated as a separate taxpayer under division (L) of this 4075
section as this section existed on December 31, 2004. 4076

(iv) The limited liability company was not formed for the 4077
purpose of evading or reducing Ohio municipal corporation income 4078
tax liability of the limited liability company or its single 4079
member. 4080

(v) The Ohio municipal corporation that was the primary 4081
place of business of the sole member of the limited liability 4082
company consented to the election. 4083

(b) For purposes of division (L) (2) (a) (v) of this section, 4084
a municipal corporation was the primary place of business of a 4085
limited liability company if, for the limited liability 4086
company's taxable year ending in 2003, its income tax liability 4087
was greater in that municipal corporation than in any other 4088
municipal corporation in Ohio, and that tax liability to that 4089

municipal corporation for its taxable year ending in 2003 was at 4090
least four hundred thousand dollars. 4091

(M) "Person" includes individuals, firms, companies, joint 4092
stock companies, business trusts, estates, trusts, partnerships, 4093
limited liability partnerships, limited liability companies, 4094
associations, C corporations, S corporations, governmental 4095
entities, and any other entity. 4096

(N) "Pass-through entity" means a partnership not treated 4097
as an association taxable as a C corporation for federal income 4098
tax purposes, a limited liability company not treated as an 4099
association taxable as a C corporation for federal income tax 4100
purposes, an S corporation, or any other class of entity from 4101
which the income or profits of the entity are given pass-through 4102
treatment for federal income tax purposes. "Pass-through entity" 4103
does not include a trust, estate, grantor of a grantor trust, or 4104
disregarded entity. 4105

(O) "S corporation" means a person that has made an 4106
election under subchapter S of Chapter 1 of Subtitle A of the 4107
Internal Revenue Code for its taxable year. 4108

(P) "Single member limited liability company" means a 4109
limited liability company that has one direct member. 4110

(Q) "Limited liability company" means a limited liability 4111
company formed under Chapter 1705. of the Revised Code or under 4112
the laws of another state. 4113

(R) "Qualifying wages" means wages, as defined in section 4114
3121(a) of the Internal Revenue Code, without regard to any wage 4115
limitations, adjusted as follows: 4116

(1) Deduct the following amounts: 4117

(a) Any amount included in wages if the amount constitutes 4118
compensation attributable to a plan or program described in 4119
section 125 of the Internal Revenue Code. 4120

(b) Any amount included in wages if the amount constitutes 4121
payment on account of a disability related to sickness or an 4122
accident paid by a party unrelated to the employer, agent of an 4123
employer, or other payer. 4124

(c) Any amount attributable to a nonqualified deferred 4125
compensation plan or program described in section 3121(v)(2)(C) 4126
of the Internal Revenue Code if the compensation is included in 4127
wages and the municipal corporation has, by resolution or 4128
ordinance adopted before January 1, 2016, exempted the amount 4129
from withholding and tax. 4130

(d) Any amount included in wages if the amount arises from 4131
the sale, exchange, or other disposition of a stock option, the 4132
exercise of a stock option, or the sale, exchange, or other 4133
disposition of stock purchased under a stock option and the 4134
municipal corporation has, by resolution or ordinance adopted 4135
before January 1, 2016, exempted the amount from withholding and 4136
tax. 4137

(e) Any amount included in wages that is exempt income. 4138

(2) Add the following amounts: 4139

(a) Any amount not included in wages solely because the 4140
employee was employed by the employer before April 1, 1986. 4141

(b) Any amount not included in wages because the amount 4142
arises from the sale, exchange, or other disposition of a stock 4143
option, the exercise of a stock option, or the sale, exchange, 4144
or other disposition of stock purchased under a stock option and 4145
the municipal corporation has not, by resolution or ordinance, 4146

exempted the amount from withholding and tax adopted before 4147
January 1, 2016. Division (R) (2) (b) of this section applies only 4148
to those amounts constituting ordinary income. 4149

(c) Any amount not included in wages if the amount is an 4150
amount described in section 401(k), 403(b), or 457 of the 4151
Internal Revenue Code. Division (R) (2) (c) of this section 4152
applies only to employee contributions and employee deferrals. 4153

(d) Any amount that is supplemental unemployment 4154
compensation benefits described in section 3402(o) (2) of the 4155
Internal Revenue Code and not included in wages. 4156

(e) Any amount received that is treated as self-employment 4157
income for federal tax purposes in accordance with section 4158
1402(a) (8) of the Internal Revenue Code. 4159

(f) Any amount not included in wages if all of the 4160
following apply: 4161

(i) For the taxable year the amount is employee 4162
compensation that is earned outside of the United States and 4163
that either is included in the taxpayer's gross income for 4164
federal income tax purposes or would have been included in the 4165
taxpayer's gross income for such purposes if the taxpayer did 4166
not elect to exclude the income under section 911 of the 4167
Internal Revenue Code; 4168

(ii) For no preceding taxable year did the amount 4169
constitute wages as defined in section 3121(a) of the Internal 4170
Revenue Code; 4171

(iii) For no succeeding taxable year will the amount 4172
constitute wages; and 4173

(iv) For any taxable year the amount has not otherwise 4174

been added to wages pursuant to either division (R) (2) of this 4175
section or section 718.03 of the Revised Code, as that section 4176
existed before the effective date of H.B. 5 of the 130th general 4177
assembly, March 23, 2015. 4178

(S) "Intangible income" means income of any of the 4179
following types: income yield, interest, capital gains, 4180
dividends, or other income arising from the ownership, sale, 4181
exchange, or other disposition of intangible property including, 4182
but not limited to, investments, deposits, money, or credits as 4183
those terms are defined in Chapter 5701. of the Revised Code, 4184
and patents, copyrights, trademarks, tradenames, investments in 4185
real estate investment trusts, investments in regulated 4186
investment companies, and appreciation on deferred compensation. 4187
"Intangible income" does not include prizes, awards, or other 4188
income associated with any lottery winnings, gambling winnings, 4189
or other similar games of chance. 4190

(T) "Taxable year" means the corresponding tax reporting 4191
period as prescribed for the taxpayer under the Internal Revenue 4192
Code. 4193

(U) "Tax administrator" means the individual charged with 4194
direct responsibility for administration of an income tax levied 4195
by a municipal corporation in accordance with this chapter, and 4196
also includes the following: 4197

(1) A municipal corporation acting as the agent of another 4198
municipal corporation; 4199

(2) A person retained by a municipal corporation to 4200
administer a tax levied by the municipal corporation, but only 4201
if the municipal corporation does not compensate the person in 4202
whole or in part on a contingency basis; 4203

(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.

"Tax administrator" does not include the tax commissioner.

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

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

(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.

(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.

(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(AA) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.72 of the Revised Code.

(BB) "Disregarded entity" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(CC) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that

is designed for reporting taxes withheld by an employer, agent 4232
of an employer, or other payer, estimated municipal income 4233
taxes, or annual municipal income tax liability or for filing a 4234
refund claim. 4235

(DD) "Tax return preparer" means any individual described 4236
in section 7701(a)(36) of the Internal Revenue Code and 26 4237
C.F.R. 301.7701-15. 4238

(EE) "Ohio business gateway" means the online computer 4239
network system, created under section 125.30 of the Revised 4240
Code, that allows persons to electronically file business reply 4241
forms with state agencies and includes any successor electronic 4242
filing and payment system. 4243

(FF) "Local board of tax review" and "board of tax review" 4244
mean the entity created under section 718.11 of the Revised 4245
Code. 4246

(GG) "Net operating loss" means a loss incurred by a 4247
person in the operation of a trade or business. "Net operating 4248
loss" does not include unutilized losses resulting from basis 4249
limitations, at-risk limitations, or passive activity loss 4250
limitations. 4251

(HH) "Casino operator" and "casino facility" have the same 4252
meanings as in section 3772.01 of the Revised Code. 4253

(II) "Video lottery terminal" has the same meaning as in 4254
section 3770.21 of the Revised Code. 4255

(JJ) "Video lottery terminal sales agent" means a lottery 4256
sales agent licensed under Chapter 3770. of the Revised Code to 4257
conduct video lottery terminals on behalf of the state pursuant 4258
to section 3770.21 of the Revised Code. 4259

(KK) "Postal service" means the United States postal service. 4260
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(LL) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Revised Code. 4262
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(MM) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B) (3) of section 5703.056 of the Revised Code. 4266
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(NN) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or 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 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code. 4270
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(OO) "Related entity" means any of the following: 4280

(1) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock; 4281
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(2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's 4287
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partnerships, estates, trusts, or corporations own directly, 4289
indirectly, beneficially, or constructively, in the aggregate, 4290
at least fifty per cent of the value of the taxpayer's 4291
outstanding stock; 4292

(3) A corporation, or a party related to the corporation 4293
in a manner that would require an attribution of stock from the 4294
corporation to the party or from the party to the corporation 4295
under division (00) (4) of this section, provided the taxpayer 4296
owns directly, indirectly, beneficially, or constructively, at 4297
least fifty per cent of the value of the corporation's 4298
outstanding stock; 4299

(4) The attribution rules described in section 318 of the 4300
Internal Revenue Code apply for the purpose of determining 4301
whether the ownership requirements in divisions (00) (1) to (3) 4302
of this section have been met. 4303

(PP) (1) "Assessment" means a written finding by the tax 4304
administrator that a person has underpaid municipal income tax, 4305
or owes penalty and interest, or any combination of tax, 4306
penalty, or interest, to the municipal corporation that 4307
commences the person's time limitation for making an appeal to 4308
the local board of tax review pursuant to section 718.11 of the 4309
Revised Code, and has "ASSESSMENT" written in all capital 4310
letters at the top of such finding. 4311

(2) "Assessment" does not include an informal notice 4312
denying a request for refund issued under division (B) (3) of 4313
section 718.19 of the Revised Code, a billing statement 4314
notifying a taxpayer of current or past-due balances owed to the 4315
municipal corporation, a tax administrator's request for 4316
additional information, a notification to the taxpayer of 4317
mathematical errors, or a tax administrator's other written 4318

correspondence to a person or taxpayer that does not meet the 4319
criteria prescribed by division (PP)(1) of this section. 4320

(QQ) "Taxpayers' rights and responsibilities" means the 4321
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 4322
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 4323
Revised Code and the responsibilities of taxpayers to file, 4324
report, withhold, remit, and pay municipal income tax and 4325
otherwise comply with Chapter 718. of the Revised Code and 4326
resolutions, ordinances, and rules adopted by a municipal 4327
corporation for the imposition and administration of a municipal 4328
income tax. 4329

(RR) "Qualified municipal corporation" means a municipal 4330
corporation that, by resolution or ordinance adopted on or 4331
before December 31, 2011, adopted Ohio adjusted gross income, as 4332
defined by section 5747.01 of the Revised Code, as the income 4333
subject to tax for the purposes of imposing a municipal income 4334
tax. 4335

(SS)(1) "Pre-2017 net operating loss carryforward" means 4336
any net operating loss incurred in a taxable year beginning 4337
before January 1, 2017, to the extent such loss was permitted, 4338
by a resolution or ordinance of the municipal corporation that 4339
was adopted by the municipal corporation before January 1, 2016, 4340
to be carried forward and utilized to offset income or net 4341
profit generated in such municipal corporation in future taxable 4342
years. 4343

(2) For the purpose of calculating municipal taxable 4344
income, any pre-2017 net operating loss carryforward may be 4345
carried forward to any taxable year, including taxable years 4346
beginning in 2017 or thereafter, for the number of taxable years 4347
provided in the resolution or ordinance or until fully utilized, 4348

whichever is earlier. 4349

(TT) "Small employer" means any employer that had total 4350
revenue of less than five hundred thousand dollars during the 4351
preceding taxable year. For purposes of this division, "total 4352
revenue" means receipts of any type or kind, including, but not 4353
limited to, sales receipts; payments; rents; profits; gains, 4354
dividends, and other investment income; compensation; 4355
commissions; premiums; money; property; grants; contributions; 4356
donations; gifts; program service revenue; patient service 4357
revenue; premiums; fees, including premium fees and service 4358
fees; tuition payments; unrelated business revenue; 4359
reimbursements; any type of payment from a governmental unit, 4360
including grants and other allocations; and any other similar 4361
receipts reported for federal income tax purposes or under 4362
generally accepted accounting principles. "Small employer" does 4363
not include the federal government; any state government, 4364
including any state agency or instrumentality; any political 4365
subdivision; or any entity treated as a government for financial 4366
accounting and reporting purposes. 4367

(UU) "Audit" means the examination of a person or the 4368
inspection of the books, records, memoranda, or accounts of a 4369
person for the purpose of determining liability for a municipal 4370
income tax. 4371

(VV) "Publicly traded partnership" means any partnership, 4372
an interest in which is regularly traded on an established 4373
securities market. A "publicly traded partnership" may have any 4374
number of partners. 4375

(WW) "Tax commissioner" means the tax commissioner 4376
appointed under section 121.03 of the Revised Code. 4377

(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.

(YY) "Pension" means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.

(ZZ) "Retirement benefit plan" means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. "Retirement benefit plan" does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time.

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 4407
and property attributable to distributions in connection with 4408
the nonqualified deferred compensation plan. 4409

(b) If, for one or more taxable years, the taxpayer has 4410
not paid to one or more municipal corporations income tax 4411
imposed on the entire amount of compensation the payment of 4412
which is deferred pursuant to a nonqualified deferred 4413
compensation plan, then the "qualifying loss" is the product of 4414
the amount resulting from the calculation described in division 4415
(A) (2) (a) of this section computed without regard to division 4416
(A) (2) (b) of this section and a fraction the numerator of which 4417
is the portion of such compensation on which the taxpayer has 4418
paid income tax to one or more municipal corporations and the 4419
denominator of which is the total amount of compensation the 4420
payment of which is deferred pursuant to a nonqualified deferred 4421
compensation plan. 4422

(c) With respect to a nonqualified deferred compensation 4423
plan, the taxpayer sustains a qualifying loss only in the 4424
taxable year in which the taxpayer receives the final 4425
distribution of money and property pursuant to that nonqualified 4426
deferred compensation plan. 4427

(3) "Qualifying tax rate" means the applicable tax rate 4428
for the taxable year for ~~the~~ which the taxpayer paid income tax 4429
to a municipal corporation with respect to any portion of the 4430
total amount of compensation the payment of which is deferred 4431
pursuant to a nonqualified deferred compensation plan. If 4432
different tax rates applied for different taxable years, then 4433
the "qualifying tax rate" is a weighted average of those 4434
different tax rates. The weighted average shall be based upon 4435
the tax paid to the municipal corporation each year with respect 4436

to the nonqualified deferred compensation plan. 4437

(B) (1) Except as provided in division (D) of this section, 4438
a refundable credit shall be allowed against the income tax 4439
imposed by a municipal corporation for each qualifying loss 4440
sustained by a taxpayer during the taxable year. The amount of 4441
the credit shall be equal to the product of the qualifying loss 4442
and the qualifying tax rate. 4443

(2) A taxpayer shall claim the credit allowed under this 4444
section from each municipal corporation to which the taxpayer 4445
paid municipal income tax with respect to the nonqualified 4446
deferred compensation plan in one or more taxable years. 4447

(3) If a taxpayer has paid tax to more than one municipal 4448
corporation with respect to the nonqualified deferred 4449
compensation plan, the amount of the credit that a taxpayer may 4450
claim from each municipal corporation shall be calculated on the 4451
basis of each municipal corporation's proportionate share of the 4452
total municipal corporation income tax paid by the taxpayer to 4453
all municipal corporations with respect to the nonqualified 4454
deferred compensation plan. 4455

(4) In no case shall the amount of the credit allowed 4456
under this section exceed the cumulative income tax that a 4457
taxpayer has paid to a municipal corporation for all taxable 4458
years with respect to the nonqualified deferred compensation 4459
plan. 4460

(C) (1) For purposes of this section, municipal corporation 4461
income tax that has been withheld with respect to a nonqualified 4462
deferred compensation plan shall be considered to have been paid 4463
by the taxpayer with respect to the nonqualified deferred 4464
compensation plan. 4465

(2) Any municipal income tax that has been refunded or 4466
otherwise credited for the benefit of the taxpayer with respect 4467
to a nonqualified deferred compensation plan shall not be 4468
considered to have been paid to the municipal corporation by the 4469
taxpayer. 4470

(D) The credit allowed under this section is allowed only 4471
to the extent the taxpayer's qualifying loss is attributable to: 4472

(1) The insolvency or bankruptcy of the employer who had 4473
established the nonqualified deferred compensation plan; or 4474

(2) The employee's failure or inability to satisfy all of 4475
the employer's terms and conditions necessary to receive the 4476
nonqualified deferred compensation. 4477

Sec. 929.01. As used in this chapter: 4478

(A) "Agricultural production" means commercial 4479
aquaculture, algaculture meaning the farming of algae, 4480
apiculture, animal husbandry, or poultry husbandry; the 4481
production for a commercial purpose of timber, field crops, 4482
tobacco, fruits, vegetables, nursery stock, ornamental shrubs, 4483
ornamental trees, flowers, or sod; the growth of timber for a 4484
noncommercial purpose if the land on which the timber is grown 4485
is contiguous to or part of a parcel of land under common 4486
ownership that is otherwise devoted exclusively to agricultural 4487
use; or any combination of such husbandry, production, or 4488
growth; and includes the processing, drying, storage, and 4489
marketing of agricultural products when those activities are 4490
conducted in conjunction with such husbandry, production, or 4491
growth. 4492

"Agricultural production" includes conservation practices, 4493
provided that the tracts, lots, or parcels of land or portions 4494

thereof that are used for conservation practices comprise not 4495
more than twenty-five per cent of tracts, lots, or parcels of 4496
land that are otherwise devoted exclusively to agricultural use 4497
and for which an application is filed under section 929.02 of 4498
the Revised Code. 4499

(B) "Withdrawal from an agricultural district" includes 4500
the explicit removal of land from an agricultural district, 4501
conversion of land in an agricultural district to use for 4502
purposes other than agricultural production, and withdrawal of 4503
land from a land retirement or conservation program to use for 4504
purposes other than agricultural production. Withdrawal from an 4505
agricultural district does not include land described in 4506
division (A) ~~(4)~~ (3) of section 5713.30 of the Revised Code. 4507

(C) "Conservation practice" has the same meaning as in 4508
section 5713.30 of the Revised Code. 4509

Sec. 1545.041. (A) Any township park district created 4510
pursuant to section 511.18 of the Revised Code that includes 4511
park land located outside the township in which the park 4512
district was established may be converted under the procedures 4513
provided in this section into a park district to be operated and 4514
maintained as provided for in this chapter, provided that there 4515
is no existing park district created under section 1545.04 of 4516
the Revised Code in the county in which the township park 4517
district is located. The proposed park district shall include 4518
within its boundary all townships and municipal corporations in 4519
which lands owned by the township park district seeking 4520
conversion are located, and may include any other townships and 4521
municipal corporations in the county in which the township park 4522
district is located. 4523

(B) Conversion of a township park district into a park 4524

district operated and maintained under this chapter shall be 4525
initiated by a resolution adopted by the board of park 4526
commissioners of the park district. Any resolution initiating a 4527
conversion shall include the following: 4528

(1) The name of the township park district seeking 4529
conversion; 4530

(2) The name of the proposed park district; 4531

(3) An accurate description of the territory to be 4532
included in the proposed district; 4533

(4) An accurate map or plat of the proposed park district. 4534
The resolution may also include a proposed tax levy for the 4535
operation and maintenance of the proposed park district. If such 4536
a tax levy is proposed, the resolution shall specify the annual 4537
rate of the tax, expressed in dollars and cents for each one 4538
hundred dollars of valuation and in mills for each dollar of 4539
valuation, and shall specify the number of consecutive years the 4540
levy will be in effect. The annual rate of such a tax may not be 4541
higher than the total combined millage of all levies then in 4542
effect for the benefit of the township park district named in 4543
the resolution. 4544

(C) Upon adoption of the resolution provided for in 4545
division (B) of this section, the board of park commissioners of 4546
the township park district seeking conversion under this section 4547
shall certify the resolution to the board of elections of the 4548
county in which the park district is located no later than four 4549
p.m. of the seventy-fifth day before the day of the election at 4550
which the question will be voted upon. Upon certification of the 4551
resolution to the board, the board of elections shall make the 4552
necessary arrangements to submit the question of conversion of 4553

the township park into a park district operated and maintained 4554
under Chapter 1545. of the Revised Code, to the electors 4555
qualified to vote at the next primary or general election who 4556
reside in the territory of the proposed park district. The 4557
question shall provide for a tax levy if such a levy is 4558
specified in the resolution. 4559

(D) The ballot submitted to the electors as provided in 4560
division (C) of this section shall contain the following 4561
language: 4562

"Shall the _____ (name of the township park 4563
district seeking conversion) be converted into a park district 4564
to be operated and maintained under Chapter 1545. of the Revised 4565
Code under the name of _____ (name of proposed park 4566
district), which park district shall include the following 4567
townships and municipal corporations: 4568

(Name townships and municipal corporations) 4569

Approval of the proposed conversion will result in the 4570
termination of all existing tax levies voted for the benefit of 4571
_____ (name of the township park district sought to be 4572
converted) and in the levy of a new tax for the operation and 4573
maintenance of _____ (name of proposed park district) 4574
at a rate not exceeding _____ (number of mills) mills for 4575
each one dollar of valuation, which is _____ (rate expressed 4576
in dollars and cents) for each one hundred dollars of valuation, 4577
for _____ (number of years the millage is to be imposed) years, 4578
commencing on the _____ (year) tax duplicate. 4579

4580

	For the proposed conversion	
	Against the proposed conversion	"

(E) If the proposed conversion is approved by at least a majority of the electors voting on the proposal, the township park district that seeks conversion shall become a park district subject to Chapter 1545. of the Revised Code effective the first day of January following approval by the voters. The park district shall have the name specified in the resolution, and effective the first day of January following approval by the voters, the following shall occur:

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

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

(3) The members of the board of park commissioners of the former township park district shall be the members ~~of the~~ ~~members~~ of the board of park commissioners of the new park district, with all the same powers and duties as if appointed under section 1545.05 of the Revised Code. The term of each such commissioner shall expire on the first day of January of the

year following the year in which his term would have expired 4607
under section 511.19 of the Revised Code. Thereafter, 4608
commissioners shall be appointed pursuant to section 1545.05 of 4609
the Revised Code. 4610

Sec. 1545.21. The board of park commissioners, by 4611
resolution, may submit to the electors of the park district the 4612
question of levying taxes for the use of the district. The 4613
resolution shall declare the necessity of levying such taxes, 4614
shall specify the purpose for which such taxes shall be used, 4615
the annual rate proposed, and the number of consecutive years 4616
the rate shall be levied. Such resolution shall be forthwith 4617
certified to the board of elections in each county in which any 4618
part of such district is located, not later than the ninetieth 4619
day before the day of the election, and the question of the levy 4620
of taxes as provided in such resolution shall be submitted to 4621
the electors of the district at a special election to be held on 4622
whichever of the following occurs first: 4623

(A) The day of the next general election; 4624

(B) The first Tuesday after the first Monday in May in any 4625
calendar year, except that if a presidential primary election is 4626
held in that calendar year, then the day of that election. ~~The~~ 4627

The ballot shall set forth the purpose for which the taxes 4628
shall be levied, the annual rate of levy, and the number of 4629
years of such levy. If the tax is to be placed on the current 4630
tax list, the form of the ballot shall state that the tax will 4631
be levied in the current tax year and shall indicate the first 4632
calendar year the tax will be due. If the resolution of the 4633
board of park commissioners provides that an existing levy will 4634
be canceled upon the passage of the new levy, the ballot may 4635
include a statement that: "an existing levy of ___ mills 4636

(stating the original levy millage), having ___ years remaining, 4637
will be canceled and replaced upon the passage of this levy." In 4638
such case, the ballot may refer to the new levy as a 4639
"replacement levy" if the new millage does not exceed the 4640
original millage of the levy being canceled or as a "replacement 4641
and additional levy" if the new millage exceeds the original 4642
millage of the levy being canceled. If a majority of the 4643
electors voting upon the question of such levy vote in favor 4644
thereof, such taxes shall be levied and shall be in addition to 4645
the taxes authorized by section 1545.20 of the Revised Code, and 4646
all other taxes authorized by law. The rate submitted to the 4647
electors at any one time shall not exceed two mills annually 4648
upon each dollar of valuation unless the purpose of the levy 4649
includes providing operating revenues for one of Ohio's major 4650
metropolitan zoos, as defined in section 4503.74 of the Revised 4651
Code, in which case the rate shall not exceed three mills 4652
annually upon each dollar of valuation. When a tax levy has been 4653
authorized as provided in this section or in section 1545.041 of 4654
the Revised Code, the board of park commissioners may issue 4655
bonds pursuant to section 133.24 of the Revised Code in 4656
anticipation of the collection of such levy, provided that such 4657
bonds shall be issued only for the purpose of acquiring and 4658
improving lands. Such levy, when collected, shall be applied in 4659
payment of the bonds so issued and the interest thereon. The 4660
amount of bonds so issued and outstanding at any time shall not 4661
exceed one per cent of the total tax valuation in such district. 4662
Such bonds shall bear interest at a rate not to exceed the rate 4663
determined as provided in section 9.95 of the Revised Code. 4664

Sec. 1711.15. In any county in which there is a duly 4665
organized county agricultural society, the board of county 4666
commissioners or the county agricultural society itself may 4667

purchase or lease, for a term of not less than twenty years, 4668
real estate on which to hold fairs under the management and 4669
control of the county agricultural society, and may erect 4670
suitable buildings on the real estate and otherwise improve it. 4671

In counties in which there is a county agricultural 4672
society that has purchased, or leased for a term of not less 4673
than twenty years, real estate as a site on which to hold fairs, 4674
or if the title to the site is vested in fee in the county, the 4675
board of county commissioners may erect or repair buildings or 4676
otherwise improve the site and pay the rental of it, or 4677
contribute to or pay any other form of indebtedness of the 4678
society, if the director of agriculture has certified to the 4679
board that the county agricultural society is complying with all 4680
laws and rules governing the operation of county agricultural 4681
societies. The board may appropriate from the county's general 4682
fund or permanent improvement fund, and may appropriate revenue 4683
from a tax levied under division ~~(L)~~(T) of section 5739.09 of 4684
the Revised Code, any amount that it considers necessary for any 4685
of those purposes, provided that an appropriation of revenue 4686
from that tax may be expended only for the purposes provided in 4687
the resolution levying that tax. 4688

Sec. 1711.16. When the control and management of a 4689
fairground is in a county agricultural society, and the board of 4690
county commissioners has appropriated an amount for the aid of 4691
the society as provided in section 1711.15 of the Revised Code, 4692
the society, with the consent of the board, may contract for the 4693
erection or repair of buildings or otherwise improve the 4694
fairground, to the extent that the payment for the improvement 4695
is provided by the board. 4696

When the appropriation is made by the board, the county 4697

auditor shall place the proceeds in a special fund, designated 4698
the "county agricultural society fund," indicating the purpose 4699
for which it is available, provided that an appropriation of 4700
revenue from a tax levied by the board under division ~~(L)~~(T) of 4701
section 5739.09 of the Revised Code may be expended only for the 4702
purposes provided in the resolution levying that tax. On 4703
application of the treasurer of the society, the auditor shall 4704
issue an order for the amount of the appropriation to the 4705
treasurer of the society, if the society has secured the 4706
certificate required under section 1711.05 of the Revised Code, 4707
on the treasurer's filing with the auditor a bond in double the 4708
amount collected, with good and sufficient sureties approved by 4709
the auditor, conditioned for the satisfactory paying over and 4710
accounting of the funds for the purposes for which they were 4711
provided. The funds shall remain in the special fund in which 4712
they are placed by the auditor until they are applied for by the 4713
treasurer of the society and the bond is given, or until they 4714
are expended by the board for the purposes for which the fund 4715
was created. If the society ceases to exist or releases the fund 4716
as not required for the purposes for which the fund was created, 4717
the board may by resolution transfer the fund to the general 4718
fund of the county. 4719

Sec. 3316.03. (A) The existence of a fiscal watch shall be 4720
declared by the auditor of state. The auditor of state may make 4721
a determination on the auditor of state's initiative, or upon 4722
receipt of a written request for such a determination, which may 4723
be filed by the governor, the superintendent of public 4724
instruction, or a majority of the members of the board of 4725
education of the school district. 4726

(1) The auditor of state shall declare a school district 4727
to be in a state of fiscal watch if the auditor of state 4728

determines that both of the following conditions are satisfied 4729
with respect to the school district: 4730

(a) An operating deficit has been certified for the 4731
current fiscal year by the auditor of state, and the certified 4732
operating deficit exceeds eight per cent of the school 4733
district's general fund revenue for the preceding fiscal year; 4734

(b) A majority of the voting electors have not voted in 4735
favor of levying a tax under section 5705.194, 5705.199, or 4736
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4737
state expects will raise enough additional revenue in the next 4738
succeeding fiscal year that division (A) (1) (a) of this section 4739
will not apply to the district in such next succeeding fiscal 4740
year. 4741

(2) The auditor of state shall declare a school district 4742
to be in a state of fiscal watch if the auditor of state 4743
determines that the school district has outstanding securities 4744
issued under division (A) (4) of section 3316.06 of the Revised 4745
Code, and its financial planning and supervision commission has 4746
been terminated under section 3316.16 of the Revised Code. 4747

(3) The auditor of state shall declare a school district 4748
to be in a state of fiscal watch if both of the following 4749
conditions are satisfied: 4750

(a) The superintendent of public instruction has reported 4751
to the auditor of state that the superintendent has declared the 4752
district under section 3316.031 of the Revised Code to be under 4753
a fiscal caution, has found that the district has not acted 4754
reasonably to eliminate or correct practices or conditions that 4755
prompted the declaration, and has determined the declaration of 4756
a state of fiscal watch necessary to prevent further fiscal 4757

decline; 4758

(b) The auditor of state determines that the decision of 4759
the superintendent is reasonable. 4760

If the auditor of state determines that the decision of 4761
the superintendent is not reasonable, the auditor of state shall 4762
provide the superintendent with a written explanation of that 4763
determination. 4764

(4) The auditor of state may declare a school district to 4765
be in a state of fiscal watch if all of the following conditions 4766
are satisfied: 4767

(a) An operating deficit has been certified for the 4768
current fiscal year by the auditor of state, and the certified 4769
operating deficit exceeds two per cent, but does not exceed 4770
eight per cent, of the school district's general fund revenue 4771
for the preceding fiscal year; 4772

(b) A majority of the voting electors have not voted in 4773
favor of levying a tax under section 5705.194, 5705.199, or 4774
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4775
state expects will raise enough additional revenue in the next 4776
succeeding fiscal year that division (A) (4) (a) of this section 4777
will not apply to the district in the next succeeding fiscal 4778
year; 4779

(c) The auditor of state determines that there is no 4780
reasonable cause for the deficit or that the declaration of 4781
fiscal watch is necessary to prevent further fiscal decline in 4782
the district. 4783

(B) (1) The auditor of state shall issue an order declaring 4784
a school district to be in a state of fiscal emergency if the 4785
auditor of state determines that both of the following 4786

conditions are satisfied with respect to the school district: 4787

(a) An operating deficit has been certified for the 4788
current fiscal year by the auditor of state, and the certified 4789
operating deficit exceeds fifteen per cent of the school 4790
district's general fund revenue for the preceding fiscal year. 4791
~~In determining the amount of an operating deficit under division~~ 4792
~~(B) (1) (a) of this section, the auditor of state shall credit~~ 4793
~~toward the amount of that deficit only the amount that may be~~ 4794
~~borrowed from the spending reserve balance as determined under~~ 4795
~~section 133.301 and division (F) of section 5705.29 of the~~ 4796
~~Revised Code.~~ 4797

(b) A majority of the voting electors have not voted in 4798
favor of levying a tax under section 5705.194, 5705.199, or 4799
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4800
state expects will raise enough additional revenue in the next 4801
succeeding fiscal year that division (B) (1) (a) of this section 4802
will not apply to the district in such next succeeding fiscal 4803
year. 4804

(2) The auditor of state shall issue an order declaring a 4805
school district to be in a state of fiscal emergency if the 4806
school district board fails, pursuant to section 3316.04 of the 4807
Revised Code, to submit a plan acceptable to the state 4808
superintendent of public instruction within one hundred twenty 4809
days of the auditor of state's declaration under division (A) of 4810
this section or an updated plan when one is required by division 4811
(C) of section 3316.04 of the Revised Code; 4812

(3) The auditor of state shall issue an order declaring a 4813
school district to be in a state of fiscal emergency if both of 4814
the following conditions are satisfied: 4815

(a) The superintendent of public instruction has reported 4816
to the auditor of state that the district is not materially 4817
complying with the provisions of an original or updated plan as 4818
approved by the state superintendent under section 3316.04 of 4819
the Revised Code, and that the state superintendent has 4820
determined the declaration of a state of fiscal emergency 4821
necessary to prevent further fiscal decline; 4822

(b) The auditor of state finds that the determination of 4823
the superintendent is reasonable. 4824

If the auditor of state determines that the decision of 4825
the superintendent is not reasonable, the auditor of state shall 4826
provide the superintendent a written explanation of that 4827
determination. 4828

(4) The auditor of state shall issue an order declaring a 4829
school district to be in a state of fiscal emergency if a 4830
declaration of fiscal emergency is required by division (D) of 4831
section 3316.04 of the Revised Code. 4832

(5) The auditor of state may issue an order declaring a 4833
school district to be in a state of fiscal emergency if all of 4834
the following conditions are satisfied: 4835

(a) An operating deficit has been certified for the 4836
current fiscal year by the auditor of state, and the certified 4837
operating deficit exceeds ten per cent, but does not exceed 4838
fifteen per cent, of the school district's general fund revenue 4839
for the preceding fiscal year; 4840

(b) A majority of the voting electors have not voted in 4841
favor of levying a tax under section 5705.194, 5705.199, or 4842
5705.21 or Chapter 5748. of the Revised Code that the auditor of 4843
state expects will raise enough additional revenue in the next 4844

succeeding fiscal year that division (B) (5) (a) of this section 4845
will not apply to the district in the next succeeding fiscal 4846
year; 4847

(c) The auditor of state determines that a declaration of 4848
fiscal emergency is necessary to correct the district's fiscal 4849
problems and to prevent further fiscal decline. 4850

(C) In making the determinations under this section, the 4851
auditor of state may use financial reports required under 4852
section 117.43 of the Revised Code; tax budgets, certificates of 4853
estimated resources and amendments thereof, annual appropriating 4854
measures and spending plans, and any other documents or 4855
information prepared pursuant to Chapter 5705. of the Revised 4856
Code; and any other documents, records, or information available 4857
to the auditor of state that indicate the conditions described 4858
in divisions (A) and (B) of this section. 4859

(D) The auditor of state shall certify the action taken 4860
under division (A) or (B) of this section to the board of 4861
education of the school district, the director of budget and 4862
management, the mayor or county auditor who could be required to 4863
act pursuant to division (B) (1) of section 3316.05 of the 4864
Revised Code, and to the superintendent of public instruction. 4865

(E) A determination by the auditor of state under this 4866
section that a fiscal emergency condition does not exist is 4867
final and conclusive and not appealable. A determination by the 4868
auditor of state under this section that a fiscal emergency 4869
exists is final, except that the board of education of the 4870
school district affected by such a determination may appeal the 4871
determination of the existence of a fiscal emergency condition 4872
to the court of appeals having territorial jurisdiction over the 4873
school district. The appeal shall be heard expeditiously by the 4874

court of appeals and for good cause shown shall take precedence 4875
over all other civil matters except earlier matters of the same 4876
character. Notice of such appeal must be filed with the auditor 4877
of state and such court within thirty days after certification 4878
by the auditor of state to the board of education of the school 4879
district provided for in division (D) of this section. In such 4880
appeal, determinations of the auditor of state shall be presumed 4881
to be valid and the board of education shall have the burden of 4882
proving, by clear and convincing evidence, that each of the 4883
determinations made by the auditor of state as to the existence 4884
of a fiscal emergency condition under this section was in error. 4885
If the board of education fails, upon presentation of its case, 4886
to prove by clear and convincing evidence that each such 4887
determination by the auditor of state was in error, the court 4888
shall dismiss the appeal. The board of education and the auditor 4889
of state may introduce any evidence relevant to the existence or 4890
nonexistence of such fiscal emergency conditions. The pendency 4891
of any such appeal shall not affect or impede the operations of 4892
this chapter; no restraining order, temporary injunction, or 4893
other similar restraint upon actions consistent with this 4894
chapter shall be imposed by the court or any court pending 4895
determination of such appeal; and all things may be done under 4896
this chapter that may be done regardless of the pendency of any 4897
such appeal. Any action taken or contract executed pursuant to 4898
this chapter during the pendency of such appeal is valid and 4899
enforceable among all parties, notwithstanding the decision in 4900
such appeal. If the court of appeals reverses the determination 4901
of the existence of a fiscal emergency condition by the auditor 4902
of state, the determination no longer has any effect, and any 4903
procedures undertaken as a result of the determination shall be 4904
terminated. 4905

Sec. 3316.06. (A) Within one hundred twenty days after the 4906
first meeting of a school district financial planning and 4907
supervision commission, the commission shall adopt a financial 4908
recovery plan regarding the school district for which the 4909
commission was created. During the formulation of the plan, the 4910
commission shall seek appropriate input from the school district 4911
board and from the community. This plan shall contain the 4912
following: 4913

(1) Actions to be taken to: 4914

(a) Eliminate all fiscal emergency conditions declared to 4915
exist pursuant to division (B) of section 3316.03 of the Revised 4916
Code; 4917

(b) Satisfy any judgments, past-due accounts payable, and 4918
all past-due and payable payroll and fringe benefits; 4919

(c) Eliminate the deficits in all deficit funds, except 4920
that any prior year deficits in the capital and maintenance fund 4921
established pursuant to section 3315.18 of the Revised Code 4922
shall be forgiven; 4923

(d) Restore to special funds any moneys from such funds 4924
that were used for purposes not within the purposes of such 4925
funds, or borrowed from such funds by the purchase of debt 4926
obligations of the school district with the moneys of such 4927
funds, or missing from the special funds and not accounted for, 4928
if any; 4929

(e) Balance the budget, avoid future deficits in any 4930
funds, and maintain on a current basis payments of payroll, 4931
fringe benefits, and all accounts; 4932

(f) Avoid any fiscal emergency condition in the future; 4933

(g) Restore the ability of the school district to market 4934
long-term general obligation bonds under provisions of law 4935
applicable to school districts generally. 4936

(2) The management structure that will enable the school 4937
district to take the actions enumerated in division (A) (1) of 4938
this section. The plan shall specify the level of fiscal and 4939
management control that the commission will exercise within the 4940
school district during the period of fiscal emergency, and shall 4941
enumerate respectively, the powers and duties of the commission 4942
and the powers and duties of the school board during that 4943
period. The commission may elect to assume any of the powers and 4944
duties of the school board it considers necessary, including all 4945
powers related to personnel, curriculum, and legal issues in 4946
order to successfully implement the actions described in 4947
division (A) (1) of this section. 4948

(3) The target dates for the commencement, progress upon, 4949
and completion of the actions enumerated in division (A) (1) of 4950
this section and a reasonable period of time expected to be 4951
required to implement the plan. The commission shall prepare a 4952
reasonable time schedule for progress toward and achievement of 4953
the requirements for the plan, and the plan shall be consistent 4954
with that time schedule. 4955

(4) The amount and purpose of any issue of debt 4956
obligations that will be issued, together with assurances that 4957
any such debt obligations that will be issued will not exceed 4958
debt limits supported by appropriate certifications by the 4959
fiscal officer of the school district and the county auditor. 4960
~~Debt obligations issued pursuant to section 133.301 of the~~ 4961
~~Revised Code shall include assurances that such debt shall be in~~ 4962
~~an amount not to exceed the amount certified under division (B)~~ 4963

~~of such section.~~ If the commission considers it necessary in 4964
order to maintain or improve educational opportunities of pupils 4965
in the school district, the plan may include a proposal to 4966
restructure or refinance outstanding debt obligations incurred 4967
by the board under section 3313.483 of the Revised Code 4968
contingent upon the approval, during the period of the fiscal 4969
emergency, by district voters of a tax levied under section 4970
718.09, 718.10, 5705.194, 5705.21, 5748.02, 5748.08, or 5748.09 4971
of the Revised Code that is not a renewal or replacement levy, 4972
or a levy under section 5705.199 of the Revised Code, and that 4973
will provide new operating revenue. Notwithstanding any 4974
provision of Chapter 133. or sections 3313.483 to 3313.4810 of 4975
the Revised Code, following the required approval of the 4976
district voters and with the approval of the commission, the 4977
school district may issue securities to evidence the 4978
restructuring or refinancing. Those securities may extend the 4979
original period for repayment, not to exceed ten years, and may 4980
alter the frequency and amount of repayments, interest or other 4981
financing charges, and other terms of agreements under which the 4982
debt originally was contracted, at the discretion of the 4983
commission, provided that any loans received pursuant to section 4984
3313.483 of the Revised Code shall be paid from funds the 4985
district would otherwise receive under Chapter 3317. of the 4986
Revised Code, as required under division (E) (3) of section 4987
3313.483 of the Revised Code. The securities issued for the 4988
purpose of restructuring or refinancing the debt shall be repaid 4989
in equal payments and at equal intervals over the term of the 4990
debt and are not eligible to be included in any subsequent 4991
proposal for the purpose of restructuring or refinancing debt 4992
under this section. 4993

(5) An evaluation of the feasibility of entering into 4994

shared services agreements with other political subdivisions for 4995
the joint exercise of any power, performance of any function, or 4996
rendering of any service, if so authorized by statute. 4997

(B) Any financial recovery plan may be amended subsequent 4998
to its adoption. Each financial recovery plan shall be updated 4999
annually. 5000

(C) Each school district financial planning and 5001
supervision commission shall submit the financial recovery plan 5002
it adopts or updates under this section to the state 5003
superintendent of public instruction for approval immediately 5004
following its adoption or updating. The state superintendent 5005
shall evaluate the plan and either approve or disapprove it 5006
within thirty calendar days from the date of its submission. If 5007
the plan is disapproved, the state superintendent shall 5008
recommend modifications that will render it acceptable. No 5009
financial planning and supervision commission shall implement a 5010
financial recovery plan that is adopted or updated on or after 5011
April 10, 2001, unless the state superintendent has approved it. 5012

Sec. 3317.01. As used in this section, "school district," 5013
unless otherwise specified, means any city, local, exempted 5014
village, joint vocational, or cooperative education school 5015
district and any educational service center. 5016

This chapter shall be administered by the state board of 5017
education. The superintendent of public instruction shall 5018
calculate the amounts payable to each school district and shall 5019
certify the amounts payable to each eligible district to the 5020
treasurer of the district as provided by this chapter. ~~As soon~~ 5021
~~as possible after such amounts are calculated, the~~ 5022
~~superintendent shall certify to the treasurer of each school~~ 5023
~~district the district's adjusted charge off increase, as defined~~ 5024

~~in section 5705.211 of the Revised Code.~~ Certification of moneys 5025
pursuant to this section shall include the amounts payable to 5026
each school building, at a frequency determined by the 5027
superintendent, for each subgroup of students, as defined in 5028
section 3317.40 of the Revised Code, receiving services, 5029
provided for by state funding, from the district or school. No 5030
moneys shall be distributed pursuant to this chapter without the 5031
approval of the controlling board. 5032

The state board of education shall, in accordance with 5033
appropriations made by the general assembly, meet the financial 5034
obligations of this chapter. 5035

Moneys distributed to school districts pursuant to this 5036
chapter shall be calculated based on the annual enrollment 5037
calculated from the three reports required under sections 5038
3317.03 and 3317.036 of the Revised Code and paid on a fiscal 5039
year basis, beginning with the first day of July and extending 5040
through the thirtieth day of June. In any given fiscal year, 5041
prior to school districts submitting the first report required 5042
under section 3317.03 of the Revised Code, enrollment for the 5043
districts shall be calculated based on the third report 5044
submitted by the districts for the previous fiscal year. The 5045
moneys appropriated for each fiscal year shall be distributed 5046
periodically to each school district unless otherwise provided 5047
for. The state board, in June of each year, shall submit to the 5048
controlling board the state board's year-end distributions 5049
pursuant to this chapter. 5050

Except as otherwise provided, payments under this chapter 5051
shall be made only to those school districts in which: 5052

(A) The school district, except for any educational 5053
service center and any joint vocational or cooperative education 5054

school district, levies for current operating expenses at least 5055
twenty mills. Levies for joint vocational or cooperative 5056
education school districts or county school financing districts, 5057
limited to or to the extent apportioned to current expenses, 5058
shall be included in this qualification requirement. School 5059
district income tax levies under Chapter 5748. of the Revised 5060
Code, limited to or to the extent apportioned to current 5061
operating expenses, shall be included in this qualification 5062
requirement to the extent determined by the tax commissioner 5063
under division (C) of section 3317.021 of the Revised Code. 5064

(B) The school year next preceding the fiscal year for 5065
which such payments are authorized meets the requirement of 5066
section 3313.48 of the Revised Code, with regard to the minimum 5067
number of hours school must be open for instruction with pupils 5068
in attendance, for individualized parent-teacher conference and 5069
reporting periods, and for professional meetings of teachers. 5070

A school district shall not be considered to have failed 5071
to comply with this division because schools were open for 5072
instruction but either twelfth grade students were excused from 5073
attendance for up to the equivalent of three school days or only 5074
a portion of the kindergarten students were in attendance for up 5075
to the equivalent of three school days in order to allow for the 5076
gradual orientation to school of such students. 5077

A board of education or governing board of an educational 5078
service center which has not conformed with other law and the 5079
rules pursuant thereto, shall not participate in the 5080
distribution of funds authorized by this chapter, except for 5081
good and sufficient reason established to the satisfaction of 5082
the state board of education and the state controlling board. 5083

All funds allocated to school districts under this 5084

chapter, except those specifically allocated for other purposes, 5085
shall be used to pay current operating expenses only. 5086

Sec. 4301.20. This chapter and Chapter 4303. of the 5087
Revised Code do not prevent the following: 5088

(A) The storage of intoxicating liquor in bonded 5089
warehouses, established in accordance with the acts of congress 5090
and under the regulation of the United States, located in this 5091
state, or the transportation of intoxicating liquor to or from 5092
bonded warehouses of the United States wherever located; 5093

(B) A bona fide resident of this state who is the owner of 5094
a warehouse receipt from obtaining or transporting to the 5095
resident's residence for the resident's own consumption and not 5096
for resale spirituous liquor stored in a government bonded 5097
warehouse in this state or in another state prior to December 5098
1933, subject to such terms as are prescribed by the division of 5099
liquor control; 5100

(C) The manufacture of cider from fruit for the purpose of 5101
making vinegar, and nonintoxicating cider and fruit juices for 5102
use and sale; 5103

(D) A licensed physician or dentist from administering or 5104
dispensing intoxicating liquor or alcohol to a patient in good 5105
faith in the actual course of the practice of the physician's or 5106
dentist's profession; 5107

(E) The sale of alcohol to physicians, dentists, 5108
druggists, veterinary surgeons, manufacturers, hospitals, 5109
infirmaries, or medical or educational institutions using the 5110
alcohol for medicinal, mechanical, chemical, or scientific 5111
purposes; 5112

(F) The sale, gift, or keeping for sale by druggists and 5113

others of any of the medicinal preparations manufactured in 5114
accordance with the formulas prescribed by the United States 5115
Pharmacopoeia and National Formulary, patent or proprietary 5116
preparations, and other bona fide medicinal and technical 5117
preparations, which contain no more alcohol than is necessary to 5118
hold the medicinal agents in solution and to preserve the same, 5119
which are manufactured and sold as medicine and not as 5120
beverages, are unfit for use for beverage purposes, and the sale 5121
of which does not require the payment of a United States liquor 5122
dealer's tax; 5123

(G) The manufacture and sale of tinctures or of toilet, 5124
medicinal, and antiseptic preparations and solutions not 5125
intended for internal human use nor to be sold as beverages, and 5126
which are unfit for beverage purposes, if upon the outside of 5127
each bottle, box, or package of which there is printed in the 5128
English language, conspicuously and legibly, the quantity by 5129
volume of alcohol in the preparation or solution; 5130

(H) The manufacture and keeping for sale of the food 5131
products known as flavoring extracts when manufactured and sold 5132
for cooking, culinary, or flavoring purposes, and which are 5133
unfit for use for beverage purposes; 5134

(I) The lawful sale of wood alcohol or of ethyl alcohol 5135
for external use when combined with other substances as to make 5136
it unfit for internal use; 5137

(J) The manufacture, sale, and transport of ethanol or 5138
ethyl alcohol for use as fuel. As used in this division, 5139
"ethanol" has the same meaning as in section ~~5733.46~~ 122.075 of 5140
the Revised Code. 5141

(K) The purchase and importation into this state or the 5142

purchase at wholesale from A or B permit holders in this state 5143
of beer and intoxicating liquor for use in manufacturing 5144
processes of nonbeverage food products under terms prescribed by 5145
the division, provided that the terms prescribed by the division 5146
shall not increase the cost of the beer or intoxicating liquor 5147
to any person, firm, or corporation purchasing and importing it 5148
into this state or purchasing it from an A or B permit holder 5149
for that use; 5150

(L) Any resident of this state or any member of the armed 5151
forces of the United States, who has attained the age of twenty- 5152
one years, from bringing into this state, for personal use and 5153
not for resale, not more than one liter of spirituous liquor, 5154
four and one-half liters of wine, or two hundred eighty-eight 5155
ounces of beer in any thirty-day period, and the same is free of 5156
any tax consent fee when the resident or member of the armed 5157
forces physically possesses and accompanies the spirituous 5158
liquor, wine, or beer on returning from a foreign country, 5159
another state, or an insular possession of the United States; 5160

(M) Persons, at least twenty-one years of age, who collect 5161
ceramic commemorative bottles containing spirituous liquor that 5162
have unbroken federal tax stamps on them from selling or trading 5163
the bottles to other collectors. The bottles shall originally 5164
have been purchased at retail from the division, legally 5165
imported under division (L) of this section, or legally imported 5166
pursuant to a supplier registration issued by the division. The 5167
sales shall be for the purpose of exchanging a ceramic 5168
commemorative bottle between private collectors and shall not be 5169
for the purpose of selling the spirituous liquor for personal 5170
consumption. The sale or exchange authorized by this division 5171
shall not occur on the premises of any permit holder, shall not 5172
be made in connection with the business of any permit holder, 5173

and shall not be made in connection with any mercantile 5174
business. 5175

(N) The sale of beer or intoxicating liquor without a 5176
liquor permit at a private residence, not more than five times 5177
per calendar year at a residence address, at an event that has 5178
the following characteristics: 5179

(1) The event is for a charitable, benevolent, or 5180
political purpose, but shall not include any event the proceeds 5181
of which are for the profit or gain of any individual; 5182

(2) The event has in attendance not more than fifty 5183
people; 5184

(3) The event shall be for a period not to exceed twelve 5185
hours; 5186

(4) The sale of beer and intoxicating liquor at the event 5187
shall not take place between two-thirty a.m. and five-thirty 5188
a.m.; 5189

(5) No person under twenty-one years of age shall purchase 5190
or consume beer or intoxicating liquor at the event and no beer 5191
or intoxicating liquor shall be sold to any person under twenty- 5192
one years of age at the event; and 5193

(6) No person at the event shall sell or furnish beer or 5194
intoxicating liquor to an intoxicated person. 5195

(O) The possession or consumption of beer or intoxicating 5196
liquor by a person who is under twenty-one years of age and who 5197
is a student at an accredited college or university, provided 5198
that both of the following apply: 5199

(1) The person is required to taste and expectorate the 5200
beer or intoxicating liquor for a culinary, food service, or 5201

hospitality course. 5202

(2) The person is under the direct supervision of the 5203
instructor of the culinary, food service, or hospitality course. 5204

Sec. 4582.024. After a port authority has been created, 5205
any municipal corporation, township, or county, acting by 5206
ordinance, resolution of the township trustees, or resolution of 5207
the county commissioners, respectively, which is contiguous to 5208
such port authority, or to any municipal corporation, township, 5209
or county which proposes to join such port authority at the same 5210
time and is contiguous to such port authority, or any county 5211
within which such port authority is situated, may join such port 5212
authority and thereupon the jurisdiction and territory of such 5213
port authority shall include such municipal corporation, county, 5214
or township. If more than one such political subdivision is to 5215
be joined to the port authority at the same time, then each such 5216
ordinance or resolution shall designate the political 5217
subdivisions which are to be so joined. Any territory or 5218
municipal corporation not included in a port authority and which 5219
is annexed to a municipal corporation included within the 5220
jurisdiction and territory of a port authority shall, on such 5221
annexation and without further proceedings, be annexed to and be 5222
included in the jurisdiction and territory of such port 5223
authority. Before such political subdivision or subdivisions are 5224
joined to a port authority, other than by annexation to a 5225
municipality, the political subdivision or subdivisions 5226
theretofore comprising such port authority shall agree upon the 5227
terms and conditions pursuant to which such political 5228
subdivision or subdivisions are to be joined. For all purposes 5229
of sections 4582.01 to 4582.20, inclusive, of the Revised Code, 5230
such political subdivision or subdivisions shall be considered 5231
to have participated in the creation of such port authority, 5232

except that the initial term of any director of the port 5233
authority appointed by such a political subdivision shall be 5234
four years. After each ordinance or resolution proposing joinder 5235
to the port authority has become effective and the terms and 5236
conditions of joinder have been agreed to, the board of 5237
directors of the port authority shall by resolution either 5238
accept or reject such joinder. Such joinder shall be effective 5239
on adoption of the resolution accepting such joinder, unless the 5240
port authority to which a political subdivision or subdivisions 5241
including a county within which such port authority is located, 5242
are to be joined has authority under section 4582.14 of the 5243
Revised Code to levy a tax on property within its jurisdiction, 5244
then such joinder shall not be effective until approved by the 5245
affirmative vote of a majority of the electors voting on the 5246
question of such joinder. If more than one political subdivision 5247
is to be joined to the port authority, then the electors of such 5248
subdivision shall vote as a district and the majority 5249
affirmative vote shall be determined by the vote cast in such 5250
district as a whole. Such election shall be called by the board 5251
of directors of the port authority and shall be held, canvassed, 5252
and certified in the manner provided for the submission of tax 5253
levies under section 5705.191 of the Revised Code except that 5254
the question appearing on the ballot shall read: 5255
"Shall _____ 5256
(name or names of political subdivisions to be joined) 5257
be joined to _____ (name) port authority and the 5258
~~(name)~~ 5259
existing tax levy (levies) of such port authority (aggregating) 5260
_____ mill per dollar of valuation be authorized to be 5261

levied against properties within 5262

" 5263

(name or names of political subdivisions to be joined) 5264

If the question is approved such joinder shall be immediately 5265
effective and the port authority shall be authorized to extend 5266
the levy of such tax against all the taxable property within the 5267
political subdivision or political subdivisions which have been 5268
joined. If such question is approved at a general election then 5269
the port authority may amend its budget and resolution adopted 5270
pursuant to section 5705.34 of the Revised Code and such levy 5271
shall be placed on the current tax list and duplicate and 5272
collected as other taxes are collected from all taxable property 5273
within the port authority including the political subdivision or 5274
political subdivisions joined as a result of such election. 5275

Sec. 4582.26. After a port authority has been created, any 5276
municipal corporation, township, county, or other political 5277
subdivision, acting by ordinance or resolution, which is 5278
contiguous to any municipal corporation, township, county, or 5279
other political subdivision which participated in the creation 5280
of such port authority or to any municipal corporation, 5281
township, county, or other political subdivision which proposes 5282
to join the port authority at the same time and is contiguous to 5283
any municipal corporation, township, county, or other political 5284
subdivision which participated in the creation of such port 5285
authority, may join such port authority, and thereupon the 5286
jurisdiction and territory of the port authority includes the 5287
municipal corporation, county, township, or other political 5288
subdivision so joining. If more than one such political 5289
subdivision is to be joined to the port authority at the same 5290
time, then each such ordinance or resolution shall designate the 5291

political subdivisions which are to be so joined. Any territory 5292
or municipal corporation not included in a port authority and 5293
which is annexed to a municipal corporation included within the 5294
jurisdiction and territory of a port authority shall, on such 5295
annexation and without further proceedings, be annexed to and be 5296
included in the jurisdiction and territory of the port 5297
authority. Before such political subdivision or subdivisions are 5298
joined to a port authority, other than by annexation to a 5299
municipal corporation, the political subdivision or subdivisions 5300
theretofore comprising such port authority shall agree upon the 5301
terms and conditions pursuant to which such political 5302
subdivision or subdivisions are to be joined. For all purposes 5303
of sections 4582.21 to 4582.59 of the Revised Code, such 5304
political subdivision or subdivisions shall be considered to 5305
have participated in the creation of such port authority, except 5306
that the initial term of any director of the port authority 5307
appointed by such a political subdivision shall be four years. 5308
After each ordinance or resolution proposing joinder to the port 5309
authority has become effective and the terms and conditions of 5310
joinder have been agreed to, the board of directors of the port 5311
authority shall by resolution either accept or reject such 5312
joinder. Such joinder shall be effective upon adoption of the 5313
resolution accepting such joinder, unless the port authority to 5314
which a political subdivision or subdivisions, including a 5315
county within which such port authority is located, are to be 5316
joined, has authority under section 4582.40 of the Revised Code 5317
to levy a tax on property within its jurisdiction, then such 5318
joinder shall not be effective until approved by the affirmative 5319
vote of a majority of the electors voting on the question of the 5320
joinder. If more than one political subdivision is to be joined 5321
to the port authority, then the electors of such subdivisions 5322
shall vote as a district and the majority affirmative vote shall 5323

be determined by the vote cast in such district as a whole. The 5324
election shall be called by the board of directors of the port 5325
authority and shall be held, canvassed, and certified in the 5326
manner provided for the submission of tax levies under section 5327
5705.191 of the Revised Code except that the question appearing 5328
on the ballot shall read: 5329

"Shall _____ 5330

(Name or names of political subdivisions to be joined) 5331

_____ 5332

~~be joined)~~ 5333

be joined to _____ (Name) port authority 5334

~~(Name)~~ 5335

and the existing tax levy (levies) of such port authority 5336

(aggregating) _____ mill per dollar of valuation 5337

be authorized to be levied against properties within 5338

_____?" 5339

(Name or names of political subdivisions to be joined) 5340

If the question is approved the joinder becomes immediately 5341

effective and the port authority is authorized to extend the 5342

levy of such tax against all the taxable property within the 5343

political subdivision or political subdivisions which have been 5344

joined. If such question is approved at a general election, then 5345

the port authority may amend its budget and resolution adopted 5346

pursuant to section 5705.34 of the Revised Code and such levy 5347

shall be placed on the current tax list and duplicate and 5348

collected as other taxes are collected from all taxable property 5349

within the port authority including the political subdivision or 5350

political subdivisions joined as a result of the election. 5351

Sec. 4582.56. (A) As used in this section: 5352

(1) "Eligible county" means a county whose territory 5353
includes a part of Lake Erie the shoreline of which represents 5354
at least fifty per cent of the linear length of the county's 5355
border with other counties of this state. 5356

(2) "Lakeshore improvement project" means construction of 5357
a port authority facility within one mile of the Lake Erie 5358
shoreline in an eligible county. 5359

(3) "Construction" includes acquisition, alteration, 5360
construction, creation, development, enlargement, equipment, 5361
improvement, installation, reconstruction, remodeling, 5362
renovation, or any combination thereof. 5363

(B) The board of directors of a port authority may enter 5364
into an agreement with the board of county commissioners of an 5365
eligible county that created the port authority providing for 5366
all of the following, and any other terms mutually agreeable to 5367
the boards: 5368

(1) The board of county commissioners levies an excise tax 5369
under division ~~(M)~~(U) of section 5739.09 of the Revised Code 5370
and pledges all the revenue from the tax to the port authority 5371
for the purpose of financing lakeshore improvement projects 5372
including the payment of debt charges on any securities issued 5373
under division (C) of this section. 5374

(2) The port authority constructs or finances the 5375
construction of lakeshore improvements and pays the costs of 5376
such projects with revenue from the tax pledged under the 5377
agreement. Such construction or financing is an authorized 5378
purpose for the purposes of division (B) of section 4582.21 of 5379

the Revised Code. 5380

(3) The port authority may not enter into any contract or 5381
other obligation regarding a lakeshore improvement project 5382
before obtaining the approval for the project by the board of 5383
county commissioners by a resolution of the board. 5384

(C) The board of directors of a port authority that enters 5385
into an agreement under this section may issue port authority 5386
special obligation bonds, and notes anticipating the proceeds of 5387
the bonds, in the principal amount that, in the opinion of the 5388
board, are necessary for the purpose of paying the costs of one 5389
or more lakeshore improvement projects or parts of one or more 5390
projects and interest on the bonds payable over the term of the 5391
issue. The board may refund any special obligation bonds by the 5392
issuance of special obligation refunding bonds regardless of 5393
whether the bonds to be refunded have or have not matured. The 5394
refunding bonds shall be sold, and the proceeds needed for such 5395
purpose applied, in the manner provided in the bond proceedings. 5396

Every issue of special obligation bonds issued under this 5397
section shall be payable from the revenue from the tax levied 5398
under division ~~(M)~~(U) of section 5739.09 of the Revised Code 5399
and pledged for such payment under the agreement. The pledge 5400
shall be valid and binding from the time the pledge is made, and 5401
the revenue so pledged and received by the port authority shall 5402
be subject to the lien of the pledge without any physical 5403
delivery of the revenue or any further act. The lien of any 5404
pledge is valid and binding as against all parties having claims 5405
of any kind in tort, contract, or otherwise against the port 5406
authority, whether or not such parties have notice of the lien. 5407
Neither the resolution nor any trust agreement by which a pledge 5408
is created need be filed or recorded except in the port 5409

authority's records. 5410

Whether or not the bonds are of such form and character as 5411
to be negotiable instruments under Title XIII of the Revised 5412
Code, the bonds shall have all the qualities and incidents of 5413
negotiable instruments, subject only to their provisions for 5414
registration, if any. 5415

Bonds issued under this section shall bear such date or 5416
dates, and shall mature at such time or times not exceeding 5417
thirty years from the date of issue of the original bonds and 5418
shall be executed in the manner that the resolution authorizing 5419
the bonds may provide. The bonds shall bear interest at such 5420
rates, or at variable rate or rates changing from time to time, 5421
in accordance with provisions provided in the authorizing 5422
resolution, shall be in such denominations and form, either 5423
coupon or registered, shall carry such registration privileges, 5424
shall be payable in such medium of payment and at such place or 5425
places, and be subject to such terms of redemption, as the board 5426
of directors of the port authority may authorize or provide. The 5427
bonds may be sold at public or private sale, and at, or at not 5428
less than, the price or prices as the board determines. If any 5429
officer whose signature or a facsimile of whose signature 5430
appears on any bonds or coupons ceases to be such officer before 5431
delivery of the bonds, the signature or facsimile shall 5432
nevertheless be sufficient for all purposes as if the officer 5433
had remained in office until delivery of the bonds, and in case 5434
the seal of the authority has been changed after a facsimile has 5435
been imprinted on the bonds, the facsimile seal will continue to 5436
be sufficient for all purposes. 5437

Any resolution authorizing bonds under this section may 5438
contain provisions governing the use and disposition of revenue 5439

pledged under the agreement under division (B) of this section; 5440
the crediting of the proceeds of the sale of the bonds to and 5441
among the funds referred to or provided for in the resolution; 5442
limitations on the purpose to which the proceeds of sale of the 5443
bonds may be applied and the pledging of portions of such 5444
proceeds to secure payment of the bonds; the issuance of notes 5445
in anticipation of the issuance of bonds; the terms upon which 5446
additional bonds may be issued and secured; the refunding of 5447
outstanding bonds; the procedure, if any, by which the terms of 5448
any contract with bondholders may be amended, the amount of 5449
bonds the holders of which must consent thereto, and the manner 5450
in which such consent may be given; securing any bonds by a 5451
trust agreement in accordance with division (D) of this section; 5452
and any other matters that may affect the security or protection 5453
of the bonds. The taxes anticipated by the bonds are not subject 5454
to diminution by initiative or referendum or by law while the 5455
bonds or notes remain outstanding in accordance with their 5456
terms, unless provision is made by law or by the board of county 5457
commissioners and board of directors of the port authority for 5458
an adequate substitute therefor reasonably satisfactory to the 5459
trustee, if a trust agreement secures the bonds. 5460

Neither the members of the board of directors of the port 5461
authority nor any person executing the bonds shall be liable 5462
personally on the bonds or be subject to any personal liability 5463
or accountability by reason of the issuance. 5464

(D) In the discretion of the board of directors, the bonds 5465
issued under this section may be secured by a trust agreement 5466
between the board of directors on behalf of the port authority 5467
and a corporate trustee, which may be any trust company or bank 5468
having powers of a trust company, within or outside the state. 5469

The trust agreement may provide for the pledge or 5470
assignment of the tax revenue to be received under the agreement 5471
entered into under division (B) of this section, but shall not 5472
pledge the general credit or other taxing power of the county or 5473
the general credit or taxing power of the port authority. The 5474
trust agreement or the resolution providing for the issuance of 5475
the bonds may set forth the rights and remedies of the 5476
bondholders and trustee, and may contain other provisions for 5477
protecting and enforcing their rights and remedies that are 5478
determined in the discretion of the board of directors to be 5479
reasonable and proper. 5480

Sec. 5701.08. As used in Title LVII of the Revised Code: 5481

(A) Personal property is "used" within the meaning of 5482
"used in business" when employed or utilized in connection with 5483
ordinary or special operations, when acquired or held as means 5484
or instruments for carrying on the business, when kept and 5485
maintained as a part of a plant capable of operation, whether 5486
actually in operation or not, or when stored or kept on hand as 5487
material, parts, products, or merchandise. Machinery and 5488
equipment classifiable upon completion as personal property 5489
while under construction or installation to become part of a new 5490
or existing plant or other facility is not considered to be 5491
"used" by the owner of such plant or other facility within the 5492
meaning of "used in business" until such machinery and equipment 5493
is installed and in operation or capable of operation in the 5494
business for which acquired. Agricultural products in storage in 5495
a grain elevator, a warehouse, or a place of storage which 5496
products are subject to control of the United States government 5497
and are to be shipped on order of the United States government 5498
are not used in business in this state. 5499

(B) Merchandise or agricultural products shipped from 5500
outside this state and held in this state in a warehouse or a 5501
place of storage without further manufacturing or processing and 5502
for storage only and for shipment outside this state are not 5503
used in business in this state. Such property qualifies for this 5504
exception if division (B) (1) or (2) of this section applies: 5505

(1) During any period that a person owns such property in 5506
this state: 5507

(a) The property is to be shipped from a warehouse or 5508
place of storage in this state to the owner of the property or 5509
persons other than customers at locations outside this state for 5510
use, processing, or sale; or 5511

(b) The property is located in public or private 5512
warehousing facilities in this state which are not subject to 5513
the control of or under the supervision of the owner of the 5514
property or manned by its employees and from which the property 5515
is to be shipped to any person, including a customer, outside 5516
this state. 5517

(2) During the first twenty-four calendar months that a 5518
person first owns such property in this state, the property is 5519
held in a warehouse or place of storage in this state located 5520
within one mile of the closest boundary of an airport, and is 5521
shipped to any person, including a customer, outside this state. 5522

For the purposes of division (B) (2) of this section, 5523
"airport" means any airport, as defined in division (C) of 5524
section 4561.01 of the Revised Code, which is approved by the 5525
department of transportation under section 4561.11 of the 5526
Revised Code to be used for commercial purposes, is regularly 5527
served by only one air carrier authorized to do so under 14 5528

C.F.R., and is not a public airport as defined in 49 U.S.C. 5529
Appx. 2202(a) (17) as existing ~~on the effective date of this~~ 5530
~~amendment~~ July 26, 1991. 5531

(3) For property that may meet the condition for the 5532
exception provided in division (B) (2) of this section, if it is 5533
not known at the conclusion of a reporting period whether the 5534
property yet qualifies for such exception, the owner of such 5535
property shall return it for taxation. If it is later determined 5536
that the returned property does so qualify, the owner may apply 5537
for a final assessment and refund on the property as provided in 5538
section 5711.26 of the Revised Code. 5539

(C) Leased property used by the lessee exclusively for 5540
agricultural purposes and new or used machinery and equipment 5541
and accessories therefor that are designed and built for 5542
agricultural use and owned by a merchant as defined in section 5543
5711.15 of the Revised Code are not considered to be "used" 5544
within the meaning of "used in business." 5545

(D) Moneys, deposits, investments, accounts receivable, 5546
and prepaid items, and other taxable intangibles are "used" when 5547
they or the avails thereof are being applied, or are intended to 5548
be applied, in the conduct of the business, whether in this 5549
state or elsewhere. 5550

(E) "Business" includes all enterprises, except 5551
agriculture, conducted for gain, profit, or income and extends 5552
to personal service occupations. 5553

Sec. 5701.11. The effective date to which this section 5554
refers is the effective date of this section as amended by ~~S.B.~~ 5555
~~22~~ H.B. 197 of the ~~132nd~~ 133rd general assembly. 5556

(A) (1) Except as provided under division (A) (2) or (B) of 5557

this section, any reference in Title LVII of the Revised Code to 5558
the Internal Revenue Code, to the Internal Revenue Code "as 5559
amended," to other laws of the United States, or to other laws 5560
of the United States, "as amended," means the Internal Revenue 5561
Code or other laws of the United States as they exist on the 5562
effective date. 5563

(2) This section does not apply to any reference in Title 5564
LVII of the Revised Code to the Internal Revenue Code as of a 5565
date certain specifying the day, month, and year, or to other 5566
laws of the United States as of a date certain specifying the 5567
day, month, and year. 5568

(B) (1) For purposes of applying section 5733.04, 5745.01, 5569
or 5747.01 of the Revised Code to a taxpayer's taxable year 5570
ending after March 30, ~~2017~~2018, and before the effective date, 5571
a taxpayer may irrevocably elect to incorporate the provisions 5572
of the Internal Revenue Code or other laws of the United States 5573
that are in effect for federal income tax purposes for that 5574
taxable year if those provisions differ from the provisions 5575
that, under division (A) of this section, would otherwise apply. 5576
The filing by the taxpayer for that taxable year of a report or 5577
return that incorporates the provisions of the Internal Revenue 5578
Code or other laws of the United States applicable for federal 5579
income tax purposes for that taxable year, and that does not 5580
include any adjustments to reverse the effects of any 5581
differences between those provisions and the provisions that 5582
would otherwise apply, constitutes the making of an irrevocable 5583
election under this division for that taxable year. 5584

(2) Elections under prior versions of division (B) (1) of 5585
this section remain in effect for the taxable years to which 5586
they apply. 5587

Sec. 5701.12. (A) The effective date to which this section 5588
refers is March 27, 2013, the effective date of this section as 5589
enacted by H.B. 510 of the 129th general assembly. 5590

(B) Any reference in Title LVII to "consolidated reports 5591
of condition and income" or "call report" means the consolidated 5592
reports of condition and income as those reports existed on the 5593
effective date. 5594

(C) Any reference in Title LVII to "FR Y-9" or "Y-9" means 5595
the FR Y-9 financial statements as those financial statements 5596
existed on the effective date. 5597

(D) This section does not apply to any reference in Title 5598
LVII of the Revised Code to "consolidated reports of condition 5599
and income," "call report," "FR Y-9," or "Y-9" as of a date 5600
certain specifying the day, month, and year. 5601

Sec. 5703.04. The tax commissioner shall have the 5602
following powers, duties, privileges, and immunities of the 5603
department of taxation: 5604

(A) All powers whatsoever of an inquisitorial nature as 5605
provided by law, including, the right to inspect books, 5606
accounts, records, and memorandums, to examine persons under 5607
oath, to issue orders or subpoenas for the production of books, 5608
accounts, papers, records, documents, and testimony, to take 5609
depositions, to apply to a court for attachment proceedings as 5610
for contempt, to approve vouchers for the fees of officers and 5611
witnesses, and to administer oaths; provided that the powers 5612
referred to in this division of this section shall be exercised 5613
by the board of tax appeals or by the tax commissioner only in 5614
connection with the performance of the duties respectively 5615
assigned to each under sections 5703.01 to 5703.09, 5703.14, and 5616

5703.15 of the Revised Code; 5617

(B) Appoint agents and prescribe their powers and duties 5618
as provided by section 5703.17 of the Revised Code; 5619

(C) Confer and meet with officers of other states and 5620
officers of the United States on any matters pertaining to their 5621
respective official duties as provided by law; 5622

(D) The immunity provided by section 5703.38 of the 5623
Revised Code; 5624

(E) The rights of action provided by section 5703.39 of 5625
the Revised Code; 5626

(F) The duties and powers mentioned in section 5703.41 of 5627
the Revised Code. 5628

Sec. 5703.211. (A) The tax commissioner shall adopt rules 5629
under Chapter 119. of the Revised Code that, except as otherwise 5630
provided in division (B) of this section, require that any 5631
search of any of the databases of the department of taxation be 5632
tracked so that administrators of the database or investigators 5633
can identify each account holder who conducted a search of the 5634
database. 5635

(B) The rules adopted under division (A) of this section 5636
shall not require the tracking of any search of any of the 5637
databases of the department conducted by an account holder in 5638
any of the following circumstances: 5639

(1) The search occurs as a result of research performed 5640
for official agency purposes, routine office procedures, or 5641
incidental contact with the information, unless the search is 5642
specifically directed toward a ~~specifically~~ specifically named 5643
individual or a group of specifically named individuals. 5644

(2) The search is for information about an individual, and 5645
it is performed as a result of a request by that individual for 5646
information about that individual. 5647

Sec. 5703.54. (A) A taxpayer aggrieved by an action or 5648
omission of an officer or employee of the department of taxation 5649
may bring an action for damages in the court of claims pursuant 5650
to Chapter ~~2734.~~2743. of the Revised Code, if all of the 5651
following apply: 5652

(1) In the action or omission the officer or employee 5653
frivolously disregards a provision of Chapter 5711., 5733., 5654
5739., 5741., or 5747. of the Revised Code or a rule of the tax 5655
commissioner adopted under authority of one of those chapters; 5656

(2) The action or omission occurred with respect to an 5657
audit or assessment and the review and collection proceedings 5658
connected with the audit or assessment; 5659

(3) The officer or employee did not act manifestly outside 5660
the scope of the officer's or employee's office or employment 5661
and did not act with malicious purpose, in bad faith, or in a 5662
wanton or reckless manner. 5663

(B) In any action brought under division (A) of this 5664
section, upon a finding of liability on the part of the state, 5665
the state shall be liable to the taxpayer in an amount equal to 5666
the sum of the following: 5667

(1) Compensatory damages sustained by the taxpayer as a 5668
result of the action or omission by the department's officer or 5669
employee; 5670

(2) Reasonable costs of litigation and attorneys fees 5671
sustained by the taxpayer. 5672

(C) In the awarding of damages under division (B) of this section, the court shall take into account the negligent actions or omissions, if any, on the part of the taxpayer that contributed to the damages, but shall not be bound by the provisions of sections 2315.32 to 2315.36 of the Revised Code.

(D) Whenever it appears to the court that a taxpayer's conduct in the proceedings brought under division (A) of this section is frivolous, the court may impose a penalty against the taxpayer in an amount not to exceed ten thousand dollars which shall be paid to the general revenue fund of the state.

(E) (1) Division (A) of this section does not apply to advisory opinions or other informational functions of an officer or employee of the department.

(2) Division (A) of this section does not authorize a taxpayer to bring an action for damages based on an action or omission of a county auditor or an employee of a county auditor.

(F) As used in this section, "frivolous" means that the conduct of the commissioner, or of the taxpayer or the taxpayer's counsel of record satisfies either of the following:

(1) It obviously serves merely to harass or maliciously injure the state or its employees or officers if referring to the conduct of a taxpayer, or to harass or maliciously injure the taxpayer if referring to the conduct of the tax commissioner;

(2) It is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law.

Sec. 5703.94. (A) As used in this section:

- (1) "Declared disaster" means an event for which a disaster declaration has been issued. 5701
5702
- (2) "Disaster declaration" means a declaration issued by the president of the United States or the governor of this state that an emergency exists. 5703
5704
5705
- (3) "Disaster response period" means the period that begins on the tenth day preceding the day on which a disaster declaration is issued through the sixtieth day following the day that the disaster declaration expires or is rescinded. 5706
5707
5708
5709
- (4) "Disaster work" means both of the following: 5710
- (a) Repairing, renovating, installing, or constructing critical infrastructure damaged or destroyed by the declared disaster, or other business activities related to that critical infrastructure; 5711
5712
5713
5714
- (b) Activities conducted in preparation for any activity described in division (A) (4) (a) of this section. 5715
5716
- (5) "Critical infrastructure" means property and equipment owned or used by a qualifying owner or user to provide service to more than one customer, including related support facilities such as buildings, offices, power lines, cable lines, poles, communication lines, and structures. 5717
5718
5719
5720
5721
- (6) "Qualifying owner or user" means a public utility, commercial mobile radio service provider, cable service provider, or video service provider. 5722
5723
5724
- (7) "Public utility" has the same meaning as in section 4905.02 of the Revised Code, without regard to the exclusions from that definition prescribed in divisions (A) (1) to (5) of that section. 5725
5726
5727
5728

(8) "Commercial mobile radio service provider" means a 5729
person providing commercial mobile service as defined in 47 5730
U.S.C. 332(d). 5731

(9) "Cable service provider" and "video service provider" 5732
have the same meanings as in section 1332.21 of the Revised 5733
Code. 5734

(10) "Out-of-state disaster business" means a person that 5735
does all of the following or to which apply all of the 5736
following: 5737

(a) Receives a qualifying solicitation; 5738

(b) Conducts disaster work in this state during a disaster 5739
response period; 5740

(c) Is not subject to taxation under Chapter 5747. or 5741
5751. of the Revised Code on any basis other than such disaster 5742
work during the calendar year preceding the year in which the 5743
disaster response period begins or is subject to such taxation 5744
during that year solely because the person is a related member 5745
of another person. 5746

(11) "Out-of-state employee" means an individual who 5747
performs no work in this state, except disaster work during a 5748
disaster response period, from the first day of the preceding 5749
calendar year to the date on which the disaster response period 5750
begins. 5751

(12) "Related member" has the same meaning as in section 5752
5733.042 of the Revised Code without regard to division (B) of 5753
that section. 5754

(13) "Qualifying solicitation" means a written 5755
solicitation or request from the state, a county, municipal 5756

corporation, or township, or a qualifying user or owner of 5757
critical infrastructure soliciting or requesting the assistance 5758
of a person to perform disaster work in this state. 5759

(14) "Qualifying employee" means one of the following: 5760

(a) An out-of-state employee performing disaster work in 5761
this state during a disaster response period whose employer 5762
receives a qualifying solicitation to perform such work; 5763

(b) An out-of-state employee performing disaster work in 5764
this state on critical infrastructure owned or used by the 5765
employee's employer during a disaster response period, provided 5766
that employer is a qualifying user or owner. 5767

(B) An out-of-state disaster business or qualifying 5768
employee shall qualify for all of the following, as applicable: 5769

(1) The exemption authorized in division (C) (20) of 5770
section 718.01, the exemption authorized in division (C) (10) of 5771
section 5741.02, the deduction authorized in division (A) ~~(33)~~ 5772
(30) of section 5747.01, and the exclusion authorized in 5773
division (F) (2) (11) of section 5751.01 of the Revised Code; 5774

(2) An exemption from any requirement to file a document 5775
or application with or to remit a fee to the secretary of state 5776
as a condition precedent to engaging in business in this state, 5777
in accordance with section 1701.041 of the Revised Code; 5778

(3) An exemption from the requirements of Chapters 4121., 5779
4123., and 4141. of the Revised Code, in accordance with 5780
division (A) (2) of section 4123.01 and section 4141.42 of the 5781
Revised Code; 5782

(4) An exemption from the requirement to obtain a state or 5783
local occupational license or other authorization, in accordance 5784

with section 4799.04 of the Revised Code. 5785

(C) (1) Upon the request of the tax commissioner, an out- 5786
of-state disaster business shall provide the following 5787
information to the commissioner: 5788

(a) The name of the out-of-state disaster business and the 5789
address of its principal place of business; 5790

(b) The business' federal tax identification number; 5791

(c) A copy of the qualifying solicitation received by the 5792
business; 5793

(d) The dates that the out-of-state disaster business and 5794
each of the business' out-of-state employees performing disaster 5795
work in this state during a disaster response period began 5796
performing disaster work in this state during that period; 5797

(e) The name and social security number of each of the 5798
out-of-state disaster business' out-of-state employees 5799
performing disaster work in this state during a disaster 5800
response period; 5801

(f) The name of any person of which the out-of-state 5802
disaster business is a related member, provided that person is 5803
subject to taxation under Chapter 5747. or 5751. of the Revised 5804
Code during the calendar year preceding the year in which the 5805
disaster response period begins; 5806

(g) Any other information required by the tax 5807
commissioner. 5808

(2) Upon the request of the tax commissioner, the employer 5809
of a qualifying employee shall provide the following information 5810
to the commissioner: 5811

(a) The employer's name and the address of its principal place of business;	5812 5813
(b) The employer's federal tax identification number;	5814
(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;	5815 5816 5817
(d) The date each of the employer's 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;	5818 5819 5820 5821
(e) The name and social security number of each of the employer's out-of-state employees performing disaster work in this state during a disaster response period;	5822 5823 5824
(f) Any other information required by the tax commissioner.	5825 5826
(3) If the commissioner makes a request under division (C) (1) or (2) of this section, the out-of-state disaster business or employer shall submit information described in that division to the commissioner not later than thirty days from the date the disaster response period terminates or thirty days after the business or employer receives the request, whichever is later.	5827 5828 5829 5830 5831 5832
(D) The department of taxation may adopt rules necessary to administer this section.	5833 5834
Sec. 5703.95. (A) As used in this section, "tax expenditure" has the same meaning as in section 5703.48 of the Revised Code.	5835 5836 5837
(B) There is hereby created the tax expenditure review committee, consisting of seven members, composed of the	5838 5839

following: 5840

(1) Three members of the house of representatives 5841
appointed by the speaker of the house of representatives in 5842
consultation with the minority leader of the house of 5843
representatives. Members described in division (B) (1) of this 5844
section shall not all be members of the same party and should be 5845
members of the house of representatives committee that deals 5846
primarily with tax legislation; 5847

(2) Three members of the senate appointed by the president 5848
of the senate in consultation with the minority leader of the 5849
senate. Members described in division (B) (2) of this section 5850
shall not all be members of the same party and should be members 5851
of the senate committee that deals primarily with tax 5852
legislation; 5853

(3) The tax commissioner or the tax commissioner's 5854
designee. The member described in division (B) (3) of this 5855
section shall be a nonvoting member. 5856

The speaker of the house of representatives and the 5857
president of the senate shall make initial appointments to the 5858
committee not later than thirty days ~~following the effective~~ 5859
~~date of the enactment of this section~~ after March 21, 2017. 5860
Thereafter, the terms of the office for appointed members shall 5861
be the same as the term of each general assembly. Members may be 5862
reappointed, provided the member continues to meet all other 5863
eligibility requirements. Vacancies shall be filled in the 5864
manner provided for original appointments. Any member appointed 5865
to fill a vacancy before the expiration of the term for which 5866
the predecessor was appointed shall hold office as a member for 5867
the remainder of that term. Appointed members of the committee 5868
serve at the pleasure of the member's appointing authority and 5869

may be removed only by the appointing authority. 5870

(C) The tax expenditure review committee shall hold its 5871
first meeting within ninety days after ~~the effective date of the~~ 5872
~~enactment of this section~~ March 21, 2017. At the first meeting, 5873
the members shall elect a chairperson, who shall be one of the 5874
members described in division (B)(1) or (2) of this section. 5875
Thereafter, the committee shall meet at least once during the 5876
first year of each fiscal biennium to review existing tax 5877
expenditures pursuant to division (D) of this section, provided 5878
the committee shall hold, for any such expenditure, at least one 5879
meeting at which a person may present to the committee evidence 5880
or testimony related to that expenditure. Any person may submit 5881
to the chairperson a request that the committee meet to accept 5882
evidence or testimony on a tax expenditure. The committee is a 5883
public body for the purposes of section 121.22 of the Revised 5884
Code. 5885

The chairperson of the committee shall serve until the 5886
thirty-first day of December of each even-numbered year. 5887
Thereafter, members shall elect a new chairperson. If the 5888
preceding chairperson was a member described in division (B)(1) 5889
of this section, the new chairperson shall be a member described 5890
in division (B)(2) of this section. If the preceding chairperson 5891
was a member described in division (B)(2) of this section, the 5892
new chairperson shall be a member described in division (B)(1) 5893
of this section. 5894

A vacancy on the committee does not impair the right of 5895
the other members to exercise all the functions of the 5896
committee. The presence of a majority of the voting members of 5897
the committee constitutes a quorum for the conduct of business 5898
of the committee. The concurrence of at least a majority of the 5899

voting members of the committee is necessary for any action to 5900
be taken by the committee. 5901

Upon the committee's request, the department of taxation, 5902
development services agency, office of budget and management, or 5903
other state agency shall provide any information in its 5904
possession that the committee requires to perform its duties. 5905

The staff of the legislative service commission shall 5906
assist the committee as directed by the committee. 5907

(D) The committee shall establish a schedule for review 5908
for each tax expenditure so that each expenditure is reviewed at 5909
least once every eight years. The schedule may provide for the 5910
review of each tax expenditure in the order the expenditures 5911
were enacted or modified, beginning with the least recently 5912
enacted or modified tax expenditure. Alternatively, the review 5913
schedule may group tax expenditures by the individuals or 5914
industries benefiting from the expenditures, the objectives of 5915
each expenditure, or the policy rationale of each expenditure. 5916
In its review, the committee shall make recommendations as to 5917
whether each tax expenditure should be continued without 5918
modification, modified, scheduled for further review at a future 5919
date to consider repealing the expenditure, or repealed 5920
outright. For each expenditure reviewed, the committee may 5921
recommend accountability standards for the future review of the 5922
expenditure. The committee may consider, when reviewing a tax 5923
expenditure, any of the relevant factors described in division 5924
(E) of this section. 5925

(E) In conducting reviews pursuant to division (D) of this 5926
section, the committee may consider the following factors: 5927

(1) The number and classes of persons, organizations, 5928

businesses, or types of industries that would receive the direct benefit or consequences of the tax expenditure; 5929
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(2) The fiscal impact of the tax expenditure on state and local taxing authorities, including any past fiscal effects and expected future fiscal impacts of the tax expenditure in the following eight-year period; 5931
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(3) Public policy objectives that might support the tax expenditure. In researching such objectives, the committee may consider the expenditure's legislative history, the tax expenditure's sponsor's intent in proposing the tax expenditure, or the extent to which the tax expenditure encourages or would encourage business growth or relocation into the state, promotes or would promote growth or retention of high-wage jobs in the state, or aids or would aid community stabilization. 5935
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(4) Whether the tax expenditure successfully accomplishes any of the objectives identified in division (E) (3) of this section; 5943
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(5) Whether the objectives identified in division (E) (3) of this section would or could have been accomplished successfully in the absence of the tax expenditure or with less cost to the state or local governments; 5946
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(6) Whether the objectives identified in division (E) (3) of this section could have been accomplished successfully through a program that requires legislative appropriations for funding; 5950
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(7) The extent to which the tax expenditure may provide unintended benefits to an individual, organization, or industry other than those the general assembly or sponsor intended or creates an unfair competitive advantage for its recipient with 5954
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5957

respect to other businesses in the state; 5958

(8) The extent to which terminating the tax expenditure 5959
may have negative effects on taxpayers that currently benefit 5960
from the tax expenditure; 5961

(9) The extent to which terminating the tax expenditure 5962
may have negative or positive effects on the state's employment 5963
and economy; 5964

(10) The feasibility of modifying the tax expenditure to 5965
provide for adjustment or recapture of the proceeds of the tax 5966
expenditure if the objectives of the tax expenditure are not 5967
fulfilled by the recipient of the tax expenditure. 5968

(F) The committee shall prepare a report of its 5969
determinations under division (D) of this section and, not later 5970
than the first day of July of each even-numbered year, submit a 5971
copy of the report to the governor, the speaker of the house of 5972
representatives, the president of the senate, the minority 5973
leader of the house of representatives, and the minority leader 5974
of the senate. The first report shall be submitted either in ~~the~~ 5975
~~year of the effective date of this section or in the first even-~~ 5976
~~numbered year thereafter~~ 2017 or 2018. If the committee 5977
maintains a web site, the committee shall cause a copy of the 5978
report to be posted on the web site in a form enabling access to 5979
the report by the public within thirty days after the report is 5980
submitted under this division. If the committee does not 5981
maintain a web site, the committee shall request that the 5982
president of the senate and the speaker of the house of 5983
representatives cause the report to be posted on the web site of 5984
the general assembly. 5985

(G) Any bill introduced in the house of representatives or 5986

the senate that proposes to enact or modify one or more tax 5987
expenditures should include a statement explaining the 5988
objectives of the tax expenditure or its modification and the 5989
sponsor's intent in proposing the tax expenditure or its 5990
modification. 5991

Sec. 5705.03. (A) The taxing authority of each subdivision 5992
may levy taxes annually, subject to the limitations of sections 5993
5705.01 to 5705.47 of the Revised Code, on the real and personal 5994
property within the subdivision for the purpose of paying the 5995
current operating expenses of the subdivision and acquiring or 5996
constructing permanent improvements. The taxing authority of 5997
each subdivision and taxing unit shall, subject to the 5998
limitations of such sections, levy such taxes annually as are 5999
necessary to pay the interest and sinking fund on and retire at 6000
maturity the bonds, notes, and certificates of indebtedness of 6001
such subdivision and taxing unit, including levies in 6002
anticipation of which the subdivision or taxing unit has 6003
incurred indebtedness. 6004

(B) (1) When a taxing authority determines that it is 6005
necessary to levy a tax outside the ten-mill limitation for any 6006
purpose authorized by the Revised Code, the taxing authority 6007
shall certify to the county auditor a resolution or ordinance 6008
requesting that the county auditor certify to the taxing 6009
authority the total current tax valuation of the subdivision, 6010
and the number of mills required to generate a specified amount 6011
of revenue, or the dollar amount of revenue that would be 6012
generated by a specified number of mills. The resolution or 6013
ordinance shall state all of the following: 6014

(a) The purpose of the tax; 6015

(b) Whether the tax is an additional levy, a renewal or a 6016

replacement of an existing tax, or a renewal or replacement of 6017
an existing tax with an increase or a decrease; 6018

(c) The section of the Revised Code authorizing submission 6019
of the question of the tax; 6020

(d) The term of years of the tax or if the tax is for a 6021
continuing period of time; 6022

(e) That the tax is to be levied upon the entire territory 6023
of the subdivision or, if authorized by the Revised Code, a 6024
description of the portion of the territory of the subdivision 6025
in which the tax is to be levied; 6026

(f) The date of the election at which the question of the 6027
tax shall appear on the ballot; 6028

(g) That the ballot measure shall be submitted to the 6029
entire territory of the subdivision or, if authorized by the 6030
Revised Code, a description of the portion of the territory of 6031
the subdivision to which the ballot measure shall be submitted; 6032

(h) The tax year in which the tax will first be levied and 6033
the calendar year in which the tax will first be collected; 6034

(i) Each such county in which the subdivision has 6035
territory. 6036

If a subdivision is located in more than one county, the 6037
county auditor shall obtain from the county auditor of each 6038
other county in which the subdivision is located the current tax 6039
valuation for the portion of the subdivision in that county. The 6040
county auditor shall issue the certification to the taxing 6041
authority within ten days after receiving the taxing authority's 6042
resolution or ordinance requesting it. 6043

(2) ~~When considering the tangible personal property~~ 6044

~~component of the tax valuation of the subdivision, the county auditor shall take into account the assessment percentages prescribed in section 5711.22 of the Revised Code. The tax commissioner may issue rules, orders, or instructions directing how the assessment percentages must be utilized.~~

~~(3)~~ Upon receiving the certification from the county auditor, the taxing authority may adopt a resolution or ordinance stating the rate of the tax levy, expressed in mills 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 6076
tax list and duplicate by the county auditor of the county in 6077
which the property is located, and shall be collected by the 6078
county treasurer of such county in the same manner and under the 6079
same laws and rules as are prescribed for the assessment and 6080
collection of county taxes. The proceeds of any tax levied by or 6081
for any subdivision when received by its fiscal officer shall be 6082
deposited in its treasury to the credit of the appropriate fund. 6083

Sec. 5705.13. (A) A taxing authority of a subdivision, by 6084
resolution or ordinance, may establish reserve balance accounts 6085
to accumulate currently available resources for the following 6086
purposes: 6087

(1) To stabilize subdivision budgets against cyclical 6088
changes in revenues and expenditures; 6089

(2) Except as otherwise provided by this section, to 6090
provide for the payment of claims and deductibles under an 6091
individual or joint self-insurance program for the subdivision, 6092
if the subdivision is permitted by law to establish such a 6093
program; 6094

(3) To provide for the payment of claims, assessments, and 6095
deductibles under a self-insurance program, individual 6096
retrospective ratings plan, group rating plan, group 6097
retrospective rating plan, medical only program, deductible 6098
plan, or large deductible plan for workers' compensation. 6099

The ordinance or resolution establishing a reserve balance 6100
account shall state the purpose for which the account is 6101
established, the fund in which the account is to be established, 6102
and the total amount of money to be reserved in the account. 6103

Not more than one reserve balance account may be 6104

established for each of the purposes permitted under divisions 6105
(A) (2) and (3) of this section. Money to the credit of a reserve 6106
balance account may be expended only for the purpose for which 6107
the account was established. 6108

A reserve balance account established for the purpose 6109
described in division (A) (1) of this section may be established 6110
in the general fund or in one or more special funds for 6111
operating purposes of the subdivision. The amount of money to be 6112
reserved in such an account in any fiscal year shall not exceed 6113
five per cent of the revenue credited in the preceding fiscal 6114
year to the fund in which the account is established, or, in the 6115
case of a reserve balance account of a county or of a township, 6116
the greater of that amount or one-sixth of the expenditures 6117
during the preceding fiscal year from the fund in which the 6118
account is established. Subject to division ~~(G)~~ (F) of section 6119
5705.29 of the Revised Code, any reserve balance in an account 6120
established under division (A) (1) of this section shall not be 6121
considered part of the unencumbered balance or revenue of the 6122
subdivision under division (A) of section 5705.35 or division 6123
(A) (1) of section 5705.36 of the Revised Code. 6124

At any time, a taxing authority of a subdivision, by 6125
resolution or ordinance, may reduce or eliminate the reserve 6126
balance in a reserve balance account established for the purpose 6127
described in division (A) (1) of this section. 6128

A reserve balance account established for the purpose 6129
described in division (A) (2) or (3) of this section shall be 6130
established in the general fund of the subdivision or by the 6131
establishment of a separate internal service fund established to 6132
account for the operation of an individual or joint self- 6133
insurance program described in division (A) (2) of this section 6134

or a workers' compensation program or plan described in division 6135
(A) (3) of this section, and shall be based on sound actuarial 6136
principles. The total amount of money in a reserve balance 6137
account for self-insurance may be expressed in dollars or as the 6138
amount determined to represent an adequate reserve according to 6139
sound actuarial principles. 6140

A taxing authority of a subdivision, by resolution or 6141
ordinance, may rescind a reserve balance account established 6142
under this division. If a reserve balance account is rescinded, 6143
money that has accumulated in the account shall be transferred 6144
to the fund or funds from which the money originally was 6145
transferred. 6146

(B) A taxing authority of a subdivision, by resolution or 6147
ordinance, may establish a special revenue fund for the purpose 6148
of accumulating resources for the payment of accumulated sick 6149
leave and vacation leave, and for payments in lieu of taking 6150
compensatory time off, upon the termination of employment or the 6151
retirement of officers and employees of the subdivision. The 6152
special revenue fund may also accumulate resources for payment 6153
of salaries during any fiscal year when the number of pay 6154
periods exceeds the usual and customary number of pay periods. 6155
Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the 6156
Revised Code, the taxing authority, by resolution or ordinance, 6157
may transfer money to the special revenue fund from any other 6158
fund of the subdivision from which such payments may lawfully be 6159
made. The taxing authority, by resolution or ordinance, may 6160
rescind a special revenue fund established under this division. 6161
If a special revenue fund is rescinded, money that has 6162
accumulated in the fund shall be transferred to the fund or 6163
funds from which the money originally was transferred. 6164

(C) A taxing authority of a subdivision, by resolution or ordinance, may establish a capital projects fund for the purpose of accumulating resources for the acquisition, construction, or improvement of fixed assets of the subdivision. For the purposes of this section, "fixed assets" includes motor vehicles. More than one capital projects fund may be established and may exist at any time. The ordinance or resolution shall identify the source of the money to be used to acquire, construct, or improve the fixed assets identified in the resolution or ordinance, the amount of money to be accumulated for that purpose, the period of time over which that amount is to be accumulated, and the fixed assets that the taxing authority intends to acquire, construct, or improve with the money to be accumulated in the fund.

A taxing authority of a subdivision shall not accumulate money in a capital projects fund for more than ten years after the resolution or ordinance establishing the fund is adopted. If the subdivision has not entered into a contract for the acquisition, construction, or improvement of fixed assets for which money was accumulated in such a fund before the end of that ten-year period, the fiscal officer of the subdivision shall transfer all money in the fund to the fund or funds from which that money originally was transferred or the fund that originally was intended to receive the money.

A taxing authority of a subdivision, by resolution or ordinance, may rescind a capital projects fund. If a capital projects fund is rescinded, money that has accumulated in the fund shall be transferred to the fund or funds from which the money originally was transferred.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of

the Revised Code, the taxing authority of a subdivision, by 6195
resolution or ordinance, may transfer money to the capital 6196
projects fund from any other fund of the subdivision that may 6197
lawfully be used for the purpose of acquiring, constructing, or 6198
improving the fixed assets identified in the resolution or 6199
ordinance. 6200

Sec. 5705.19. This section does not apply to school 6201
districts, county school financing districts, or lake facilities 6202
authorities. 6203

The taxing authority of any subdivision at any time and in 6204
any year, by vote of two-thirds of all the members of the taxing 6205
authority, may declare by resolution and certify the resolution 6206
to the board of elections not less than ninety days before the 6207
election upon which it will be voted that the amount of taxes 6208
that may be raised within the ten-mill limitation will be 6209
insufficient to provide for the necessary requirements of the 6210
subdivision and that it is necessary to levy a tax in excess of 6211
that limitation for any of the following purposes: 6212

(A) For current expenses of the subdivision, except that 6213
the total levy for current expenses of a detention facility 6214
district or district organized under section 2151.65 of the 6215
Revised Code shall not exceed two mills and that the total levy 6216
for current expenses of a combined district organized under 6217
sections 2151.65 and 2152.41 of the Revised Code shall not 6218
exceed four mills; 6219

(B) For the payment of debt charges on certain described 6220
bonds, notes, or certificates of indebtedness of the subdivision 6221
issued subsequent to January 1, 1925; 6222

(C) For the debt charges on all bonds, notes, and 6223

certificates of indebtedness issued and authorized to be issued	6224
prior to January 1, 1925;	6225
(D) For a public library of, or supported by, the	6226
subdivision under whatever law organized or authorized to be	6227
supported;	6228
(E) For a municipal university, not to exceed two mills	6229
over the limitation of one mill prescribed in section 3349.13 of	6230
the Revised Code;	6231
(F) For the construction or acquisition of any specific	6232
permanent improvement or class of improvements that the taxing	6233
authority of the subdivision may include in a single bond issue;	6234
(G) For the general construction, reconstruction,	6235
resurfacing, and repair of streets, roads, and bridges in	6236
municipal corporations, counties, or townships;	6237
(H) For parks and recreational purposes;	6238
(I) For providing and maintaining fire apparatus,	6239
mechanical resuscitators, underwater rescue and recovery	6240
equipment, or other fire equipment and appliances, buildings and	6241
sites therefor, or sources of water supply and materials	6242
therefor, for the establishment and maintenance of lines of	6243
fire-alarm communications, for the payment of firefighting	6244
companies or permanent, part-time, or volunteer firefighting,	6245
emergency medical service, administrative, or communications	6246
personnel to operate the same, including the payment of any	6247
employer contributions required for such personnel under section	6248
145.48 or 742.34 of the Revised Code, for the purchase of	6249
ambulance equipment, for the provision of ambulance, paramedic,	6250
or other emergency medical services operated by a fire	6251
department or firefighting company, or for the payment of other	6252

related costs;	6253
(J) For providing and maintaining motor vehicles,	6254
communications, other equipment, buildings, and sites for such	6255
buildings used directly in the operation of a police department,	6256
for the payment of salaries of permanent or part-time police,	6257
communications, or administrative personnel to operate the same,	6258
including the payment of any employer contributions required for	6259
such personnel under section 145.48 or 742.33 of the Revised	6260
Code, for the payment of the costs incurred by townships as a	6261
result of contracts made with other political subdivisions in	6262
order to obtain police protection, for the provision of	6263
ambulance or emergency medical services operated by a police	6264
department, or for the payment of other related costs;	6265
(K) For the maintenance and operation of a county home or	6266
detention facility;	6267
(L) For community developmental disabilities programs and	6268
services pursuant to Chapter 5126. of the Revised Code, except	6269
that such levies shall be subject to the procedures and	6270
requirements of section 5705.222 of the Revised Code;	6271
(M) For regional planning;	6272
(N) For a county's share of the cost of maintaining and	6273
operating schools, district detention facilities, forestry	6274
camps, or other facilities, or any combination thereof,	6275
established under section 2151.65 or 2152.41 of the Revised Code	6276
or both of those sections;	6277
(O) For providing for flood defense, providing and	6278
maintaining a flood wall or pumps, and other purposes to prevent	6279
floods;	6280
(P) For maintaining and operating sewage disposal plants	6281

and facilities;	6282
(Q) For the purpose of purchasing, acquiring,	6283
constructing, enlarging, improving, equipping, repairing,	6284
maintaining, or operating, or any combination of the foregoing,	6285
a county transit system pursuant to sections 306.01 to 306.13 of	6286
the Revised Code, or of making any payment to a board of county	6287
commissioners operating a transit system or a county transit	6288
board pursuant to section 306.06 of the Revised Code;	6289
(R) For the subdivision's share of the cost of acquiring	6290
or constructing any schools, forestry camps, detention	6291
facilities, or other facilities, or any combination thereof,	6292
under section 2151.65 or 2152.41 of the Revised Code or both of	6293
those sections;	6294
(S) For the prevention, control, and abatement of air	6295
pollution;	6296
(T) For maintaining and operating cemeteries;	6297
(U) For providing ambulance service, emergency medical	6298
service, or both;	6299
(V) For providing for the collection and disposal of	6300
garbage or refuse, including yard waste;	6301
(W) For the payment of the police officer employers'	6302
contribution or the firefighter employers' contribution required	6303
under sections 742.33 and 742.34 of the Revised Code;	6304
(X) For the construction and maintenance of a drainage	6305
improvement pursuant to section 6131.52 of the Revised Code;	6306
(Y) For providing or maintaining senior citizens services	6307
or facilities as authorized by section 307.694, 307.85, 505.70,	6308
or 505.706 or division (EE) of section 717.01 of the Revised	6309

Code;	6310
(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;	6311 6312 6313
(AA) For the maintenance and operation of a free public museum of art, science, or history;	6314 6315
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 128.01 of the Revised Code;	6316 6317
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.	6318 6319 6320 6321 6322 6323
(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;	6324 6325 6326
(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;	6327 6328 6329 6330 6331 6332 6333 6334 6335 6336
(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating,	6337 6338

or any combination of the foregoing, a township airport, landing 6339
field, or other air navigation facility pursuant to section 6340
505.15 of the Revised Code; 6341

(GG) For the payment of costs incurred by a township as a 6342
result of a contract made with a county pursuant to section 6343
505.263 of the Revised Code in order to pay all or any part of 6344
the cost of constructing, maintaining, repairing, or operating a 6345
water supply improvement; 6346

(HH) For a board of township trustees to acquire, other 6347
than by appropriation, an ownership interest in land, water, or 6348
wetlands, or to restore or maintain land, water, or wetlands in 6349
which the board has an ownership interest, not for purposes of 6350
recreation, but for the purposes of protecting and preserving 6351
the natural, scenic, open, or wooded condition of the land, 6352
water, or wetlands against modification or encroachment 6353
resulting from occupation, development, or other use, which may 6354
be styled as protecting or preserving "greenspace" in the 6355
resolution, notice of election, or ballot form. Except as 6356
otherwise provided in this division, land is not acquired for 6357
purposes of recreation, even if the land is used for 6358
recreational purposes, so long as no building, structure, or 6359
fixture used for recreational purposes is permanently attached 6360
or affixed to the land. Except as otherwise provided in this 6361
division, land that previously has been acquired in a township 6362
for these greenspace purposes may subsequently be used for 6363
recreational purposes if the board of township trustees adopts a 6364
resolution approving that use and no building, structure, or 6365
fixture used for recreational purposes is permanently attached 6366
or affixed to the land. The authorization to use greenspace land 6367
for recreational use does not apply to land located in a 6368
township that had a population, at the time it passed its first 6369

greenspace levy, of more than thirty-eight thousand within a 6370
county that had a population, at that time, of at least eight 6371
hundred sixty thousand. 6372

(II) For the support by a county of a crime victim 6373
assistance program that is provided and maintained by a county 6374
agency or a private, nonprofit corporation or association under 6375
section 307.62 of the Revised Code; 6376

(JJ) For any or all of the purposes set forth in divisions 6377
(I) and (J) of this section. This division applies only to a 6378
municipal corporation or a township. 6379

(KK) For a countywide public safety communications system 6380
under section 307.63 of the Revised Code. This division applies 6381
only to counties. 6382

(LL) For the support by a county of criminal justice 6383
services under section 307.45 of the Revised Code; 6384

(MM) For the purpose of maintaining and operating a jail 6385
or other detention facility as defined in section 2921.01 of the 6386
Revised Code; 6387

(NN) For purchasing, maintaining, or improving, or any 6388
combination of the foregoing, real estate on which to hold, and 6389
the operating expenses of, agricultural fairs operated by a 6390
county agricultural society or independent agricultural society 6391
under Chapter 1711. of the Revised Code. This division applies 6392
only to a county. 6393

(OO) For constructing, rehabilitating, repairing, or 6394
maintaining sidewalks, walkways, trails, bicycle pathways, or 6395
similar improvements, or acquiring ownership interests in land 6396
necessary for the foregoing improvements; 6397

(PP) For both of the purposes set forth in divisions (G)	6398
and (OO) of this section.	6399
(QQ) For both of the purposes set forth in divisions (H)	6400
and (HH) of this section. This division applies only to a	6401
township.	6402
(RR) For the legislative authority of a municipal	6403
corporation, board of county commissioners of a county, or board	6404
of township trustees of a township to acquire agricultural	6405
easements, as defined in section 5301.67 of the Revised Code,	6406
and to supervise and enforce the easements.	6407
(SS) For both of the purposes set forth in divisions (BB)	6408
and (KK) of this section. This division applies only to a	6409
county.	6410
(TT) For the maintenance and operation of a facility that	6411
is organized in whole or in part to promote the sciences and	6412
natural history under section 307.761 of the Revised Code.	6413
(UU) For the creation and operation of a county land	6414
reutilization corporation and for any programs or activities of	6415
the corporation found by the board of directors of the	6416
corporation to be consistent with the purposes for which the	6417
corporation is organized;	6418
(VV) For construction and maintenance of improvements and	6419
expenses of soil and water conservation district programs under	6420
Chapter 940. of the Revised Code;	6421
(WW) For the OSU extension fund created under section	6422
3335.35 of the Revised Code for the purposes prescribed under	6423
section 3335.36 of the Revised Code for the benefit of the	6424
citizens of a county. This division applies only to a county.	6425

(XX) For a municipal corporation that withdraws or 6426
proposes by resolution to withdraw from a regional transit 6427
authority under section 306.55 of the Revised Code to provide 6428
transportation services for the movement of persons within, 6429
from, or to the municipal corporation; 6430

(YY) For any combination of the purposes specified in 6431
divisions (NN), (VV), and (WW) of this section. This division 6432
applies only to a county. 6433

(ZZ) For any combination of the following purposes: the 6434
acquisition, construction, improvement, or maintenance of 6435
buildings, equipment, and supplies for police, firefighting, or 6436
emergency medical services; the construction, reconstruction, 6437
resurfacing, or repair of streets, roads, and bridges; or for 6438
general infrastructure projects. This division applies only to a 6439
township or municipal corporation. 6440

(AAA) For any combination of the purposes specified in 6441
divisions (G), (K), (N), (O), (P), (X), (BB), and (MM) of this 6442
section, for the acquisition, construction or maintenance of 6443
county facilities, or for the acquisition of or improvements to 6444
land. This division applies only to a county. 6445

The resolution shall be confined to the purpose or 6446
purposes described in one division of this section, to which the 6447
revenue derived therefrom shall be applied. The existence in any 6448
other division of this section of authority to levy a tax for 6449
any part or all of the same purpose or purposes does not 6450
preclude the use of such revenues for any part of the purpose or 6451
purposes of the division under which the resolution is adopted. 6452

The resolution shall specify the amount of the increase in 6453
rate that it is necessary to levy, the purpose of that increase 6454

in rate, and the number of years during which the increase in 6455
rate shall be in effect, which may or may not include a levy 6456
upon the duplicate of the current year. The number of years may 6457
be any number not exceeding five, except as follows: 6458

(1) When the additional rate is for the payment of debt 6459
charges, the increased rate shall be for the life of the 6460
indebtedness. 6461

(2) When the additional rate is for any of the following, 6462
the increased rate shall be for a continuing period of time: 6463

(a) For the current expenses for a detention facility 6464
district, a district organized under section 2151.65 of the 6465
Revised Code, or a combined district organized under sections 6466
2151.65 and 2152.41 of the Revised Code; 6467

(b) For providing a county's share of the cost of 6468
maintaining and operating schools, district detention 6469
facilities, forestry camps, or other facilities, or any 6470
combination thereof, established under section 2151.65 or 6471
2152.41 of the Revised Code or under both of those sections. 6472

(3) When the additional rate is for either of the 6473
following, the increased rate may be for a continuing period of 6474
time: 6475

(a) For the purposes set forth in division (I), (J), (U), 6476
or (KK) of this section; 6477

(b) For the maintenance and operation of a joint 6478
recreation district. 6479

(4) When the increase is for the purpose or purposes set 6480
forth in division (D), (G), (H), (T), (Z), (CC), or (PP) of this 6481
section, the tax levy may be for any specified number of years 6482

or for a continuing period of time, as set forth in the 6483
resolution. 6484

(5) When the increase is for the purpose set forth in 6485
division (ZZ) or (AAA) of this section, the tax levy may be for 6486
any number of years not exceeding ten. 6487

A levy for one of the purposes set forth in division (G), 6488
(I), (J), or (U) of this section may be reduced pursuant to 6489
section 5705.261 or 5705.31 of the Revised Code. A levy for one 6490
of the purposes set forth in division (G), (I), (J), or (U) of 6491
this section may also be terminated or permanently reduced by 6492
the taxing authority if it adopts a resolution stating that the 6493
continuance of the levy is unnecessary and the levy shall be 6494
terminated or that the millage is excessive and the levy shall 6495
be decreased by a designated amount. 6496

A resolution of a detention facility district, a district 6497
organized under section 2151.65 of the Revised Code, or a 6498
combined district organized under both sections 2151.65 and 6499
2152.41 of the Revised Code may include both current expenses 6500
and other purposes, provided that the resolution shall apportion 6501
the annual rate of levy between the current expenses and the 6502
other purpose or purposes. The apportionment need not be the 6503
same for each year of the levy, but the respective portions of 6504
the rate actually levied each year for the current expenses and 6505
the other purpose or purposes shall be limited by the 6506
apportionment. 6507

Whenever a board of county commissioners, acting either as 6508
the taxing authority of its county or as the taxing authority of 6509
a sewer district or subdistrict created under Chapter 6117. of 6510
the Revised Code, by resolution declares it necessary to levy a 6511
tax in excess of the ten-mill limitation for the purpose of 6512

constructing, improving, or extending sewage disposal plants or 6513
sewage systems, the tax may be in effect for any number of years 6514
not exceeding twenty, and the proceeds of the tax, 6515
notwithstanding the general provisions of this section, may be 6516
used to pay debt charges on any obligations issued and 6517
outstanding on behalf of the subdivision for the purposes 6518
enumerated in this paragraph, provided that any such obligations 6519
have been specifically described in the resolution. 6520

A resolution adopted by the legislative authority of a 6521
municipal corporation that is for the purpose in division (XX) 6522
of this section may be combined with the purpose provided in 6523
section 306.55 of the Revised Code, by vote of two-thirds of all 6524
members of the legislative authority. The legislative authority 6525
may certify the resolution to the board of elections as a 6526
combined question. The question appearing on the ballot shall be 6527
as provided in section 5705.252 of the Revised Code. 6528

A levy for the purpose set forth in division (BB) of this 6529
section may be imposed in all or a portion of the territory of a 6530
subdivision. If the 9-1-1 system to be established and operated 6531
with levy funds excludes territory located within the 6532
subdivision, the resolution adopted under this section, or a 6533
resolution proposing to renew such a levy that was imposed in 6534
all of the territory of the subdivision, may describe the area 6535
served or to be served by the system and specify that the 6536
proposed tax would be imposed only in the areas receiving or to 6537
receive the service. Upon passage of such a resolution, the 6538
board of elections shall submit the question of the tax levy 6539
only to those electors residing in the area or areas in which 6540
the tax would be imposed. If the 9-1-1 system would serve the 6541
entire subdivision, the resolution shall not exclude territory 6542
from the tax levy. 6543

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision or, in the case of a qualifying library levy for the support of a library association or private corporation, the electors of the association library district or, in the case of a 9-1-1 system levy serving only a portion of the territory of a subdivision, the electors of the portion of the subdivision in which the levy would be imposed have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.195. Within five days after the resolution is certified to the county auditor as provided by section 5705.194 of the Revised Code, the auditor shall calculate and certify to the taxing authority the annual levy, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, throughout the life of the levy which will be required to produce the annual amount set forth in the resolution assuming that the amount of the tax list of such subdivision remains throughout the life of the levy the same as the amount of the tax list for the current year, and if this is not determined, the estimated amount submitted by the auditor to the county budget commission. ~~When considering the tangible personal property component of the tax valuation of the subdivision, the county auditor shall take into account the assessment percentages prescribed in section 5711.22 of the Revised Code. The tax commissioner may issue rules, orders, or instructions directing how the assessment percentages must be utilized.~~

Upon receiving the certification from the county auditor, 6575
if the taxing authority desires to proceed with the submission 6576
of the question it shall, not less than ninety days before the 6577
day of such election, certify its resolution, together with the 6578
amount of the average tax levy, expressed in dollars and cents 6579
for each one hundred dollars of valuation as well as in mills 6580
for each one dollar of valuation, estimated by the auditor, and 6581
the number of years the levy is to run to the board of elections 6582
of the county which shall prepare the ballots and make other 6583
necessary arrangements for the submission of the question to the 6584
voters of the subdivision. 6585

Sec. 5705.213. (A) (1) The board of education of any school 6586
district, at any time and by a vote of two-thirds of all of its 6587
members, may declare by resolution that the amount of taxes that 6588
may be raised within the ten-mill limitation will be 6589
insufficient to provide an adequate amount for the present and 6590
future requirements of the school district and that it is 6591
necessary to levy a tax in excess of that limitation for current 6592
expenses. The resolution also shall state that the question of 6593
the additional tax shall be submitted to the electors of the 6594
school district at a special election. The resolution shall 6595
specify, for each year the levy is in effect, the amount of 6596
money that the levy is proposed to raise, which may, for years 6597
after the first year the levy is made, be expressed in terms of 6598
a dollar or percentage increase over the prior year's amount. 6599
The resolution also shall specify that the purpose of the levy 6600
is for current expenses, the number of years during which the 6601
tax shall be in effect which may be for any number of years not 6602
exceeding ten, and the year in which the tax first is proposed 6603
to be levied. The resolution shall specify the date of holding 6604
the special election, which shall not be earlier than ninety- 6605

five days after the adoption and certification of the resolution 6606
to the county auditor and not earlier than ninety days after 6607
certification to the board of elections. The date of the 6608
election shall be consistent with the requirements of section 6609
3501.01 of the Revised Code. 6610

(2) The board of education, by a vote of two-thirds of all 6611
of its members, may adopt a resolution proposing to renew a tax 6612
levied under division (A) (1) of this section. Such a resolution 6613
shall provide for levying a tax and specify all of the 6614
following: 6615

(a) That the tax shall be called and designated on the 6616
ballot as a renewal levy; 6617

(b) The amount of the renewal tax, which shall be no more 6618
than the amount of tax levied during the last year the tax being 6619
renewed is authorized to be in effect; 6620

(c) The number of years, not to exceed ten, that the 6621
renewal tax will be levied, or that it will be levied for a 6622
continuing period of time; 6623

(d) That the purpose of the renewal levy is for current 6624
expenses; 6625

(e) Subject to the certification and notification 6626
requirements of section 5705.251 of the Revised Code, that the 6627
question of the renewal levy shall be submitted to the electors 6628
of the school district at the general election held during the 6629
last year the tax being renewed may be extended on the real and 6630
public utility property tax list and duplicate or at a special 6631
election held during the ensuing year. 6632

(3) A resolution adopted under division (A) (1) or (2) of 6633
this section shall go into immediate effect upon its adoption 6634

and no publication of the resolution is necessary other than 6635
that provided for in the notice of election. Immediately after 6636
its adoption, a copy of the resolution shall be certified to the 6637
county auditor of the proper county, who shall, within five 6638
days, calculate and certify to the board of education the 6639
estimated levy, for the first year, and for each subsequent year 6640
for which the tax is proposed to be in effect. The estimates 6641
shall be made both in mills for each dollar of valuation, and in 6642
dollars and cents for each one hundred dollars of valuation. In 6643
making the estimates, the auditor shall assume that the amount 6644
of the tax list remains throughout the life of the levy, the 6645
same as the tax list for the current year. If the tax list for 6646
the current year is not determined, the auditor shall base the 6647
auditor's estimates on the estimated amount of the tax list for 6648
the current year as submitted to the county budget commission. 6649

If the board desires to proceed with the submission of the 6650
question, it shall certify its resolution, with the estimated 6651
tax levy expressed in mills and dollars and cents per hundred 6652
dollars of valuation for each year that the tax is proposed to 6653
be in effect, to the board of elections of the proper county in 6654
the manner provided by division (A) of section 5705.251 of the 6655
Revised Code. Section 5705.251 of the Revised Code shall govern 6656
the arrangements for the submission of the question and other 6657
matters concerning the election to which that section refers. 6658
The election shall be held on the date specified in the 6659
resolution. If a majority of the electors voting on the question 6660
so submitted in an election vote in favor of the tax, and if the 6661
tax is authorized to be levied for the current year, the board 6662
of education immediately may make the additional levy necessary 6663
to raise the amount specified in the resolution or a lesser 6664
amount for the purpose stated in the resolution. 6665

(4) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(B) Notwithstanding ~~sections~~ section 133.30 ~~and 133.301~~ of the Revised Code, after the approval of a tax to be levied in the current or the succeeding year and prior to the time when the first tax collection from that 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 to exceed fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy. The notes shall be sold as provided in Chapter 133. of the Revised Code. If anticipation notes are issued, they shall mature serially and in substantially equal amounts during each year over a period not to exceed five years; and the amount necessary to pay the interest and principal as the anticipation notes mature shall be deemed appropriated for those purposes from the levy, and appropriations from the levy by the board of education shall be limited each fiscal year to the balance available in excess of that amount.

If the auditor of state has certified a deficit pursuant to section 3313.483 of the Revised Code, the notes authorized under this section may be sold in accordance with Chapter 133. of the Revised Code, except that the board may sell the notes after providing a reasonable opportunity for competitive bidding.

Sec. 5705.252. (A) If the legislative authority of a municipal corporation adopts a resolution for the purposes provided in section 306.55 of the Revised Code and division (XX) of section 5705.19 of the Revised Code and certifies the

resolution to the board of elections as a combined question, the 6696
question appearing on the ballot shall read: 6697

"Shall the territory within the _____ (name of municipal 6698
corporation) be withdrawn from _____ (name of regional transit 6699
authority) and shall an additional tax be levied for the benefit 6700
of _____ (name of municipal corporation) _____ for the purpose 6701
of providing transportation services for the movement of persons 6702
within, from, or to the _____ (name of municipal corporation) 6703
at a rate not exceeding _____ mills for each one dollar of 6704
valuation, which amounts to _____ (rate expressed in dollars 6705
and cents) for each one hundred dollars of valuation, for _____ 6706
(number of years the levy is to run)?" 6707

(B) If the board of trustees of a township adopts a 6708
resolution for the purposes provided in sections 306.55 and 6709
5705.72 of the Revised Code and certifies the resolution to the 6710
board of elections as a combined question, the question 6711
appearing on the ballot in the unincorporated area of the 6712
township shall read: 6713

"Shall the territory within the unincorporated area of 6714
_____ (name of township) be withdrawn from _____ (name of 6715
regional transit authority) and shall an additional tax be 6716
levied for the benefit of the unincorporated area of _____ 6717
(name of township) for the purpose of providing transportation 6718
services for the movement of persons within, from, or to the 6719
unincorporated area of _____ (name of township) at a rate not 6720
exceeding _____ mills for each one dollar of valuation, which 6721
amounts to _____ (rate expressed in dollars and cents) for each 6722
one hundred dollars of valuation, for _____ (number of years 6723
the levy is to run)?" 6724

Sec. 5705.29. This section does not apply to a subdivision 6725

or taxing unit for which the county budget commission has waived 6726
the requirement to adopt a tax budget pursuant to section 6727
5705.281 of the Revised Code. The tax budget shall present the 6728
following information in such detail as is prescribed by the 6729
auditor of state: 6730

(A) (1) A statement of the necessary current operating 6731
expenses for the ensuing fiscal year for each department and 6732
division of the subdivision, classified as to personal services 6733
and other expenses, and the fund from which such expenditures 6734
are to be made. Except in the case of a school district, this 6735
estimate may include a contingent expense not designated for any 6736
particular purpose, and not to exceed three per cent of the 6737
total amount of appropriations for current expenses. In the case 6738
of a school district, this estimate may include a contingent 6739
expense not designated for any particular purpose and not to 6740
exceed thirteen per cent of the total amount of appropriations 6741
for current expenses. 6742

(2) A statement of the expenditures for the ensuing fiscal 6743
year necessary for permanent improvements, exclusive of any 6744
expense to be paid from bond issues, classified as to the 6745
improvements contemplated by the subdivision and the fund from 6746
which such expenditures are to be made; 6747

(3) The amounts required for the payment of final 6748
judgments; 6749

(4) A statement of expenditures for the ensuing fiscal 6750
year necessary for any purpose for which a special levy is 6751
authorized, and the fund from which such expenditures are to be 6752
made; 6753

(5) Comparative statements, so far as possible, in 6754

parallel columns of corresponding items of expenditures for the 6755
current fiscal year and the two preceding fiscal years. 6756

(B) (1) An estimate of receipts from other sources than the 6757
general property tax during the ensuing fiscal year, which shall 6758
include an estimate of unencumbered balances at the end of the 6759
current fiscal year, and the funds to which such estimated 6760
receipts are credited; 6761

(2) The amount each fund requires from the general 6762
property tax, which shall be the difference between the 6763
contemplated expenditure from the fund and the estimated 6764
receipts, as provided in this section. The section of the 6765
Revised Code under which the tax is authorized shall be set 6766
forth. 6767

(3) Comparative statements, so far as possible, in 6768
parallel columns of taxes and other revenues for the current 6769
fiscal year and the two preceding fiscal years. 6770

(C) (1) The amount required for debt charges; 6771

(2) The estimated receipts from sources other than the tax 6772
levy for payment of such debt charges, including the proceeds of 6773
refunding bonds to be issued to refund bonds maturing in the 6774
next succeeding fiscal year; 6775

(3) The net amount for which a tax levy shall be made, 6776
classified as to bonds authorized and issued prior to January 1, 6777
1922, and those authorized and issued subsequent to such date, 6778
and as to what portion of the levy will be within and what in 6779
excess of the ten-mill limitation. 6780

(D) An estimate of amounts from taxes authorized to be 6781
levied in excess of the ten-mill limitation on the tax rate, and 6782
the fund to which such amounts will be credited, together with 6783

the sections of the Revised Code under which each such tax is 6784
exempted from all limitations on the tax rate. 6785

(E) (1) A board of education may include in its budget for 6786
the fiscal year in which a levy proposed under section 5705.194, 6787
5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy 6788
proposed under section 5748.09, or the original levy under 6789
section 5705.212 of the Revised Code is first extended on the 6790
tax list and duplicate an estimate of expenditures to be known 6791
as a voluntary contingency reserve balance, which shall not be 6792
greater than twenty-five per cent of the total amount of the 6793
levy estimated to be available for appropriation in such year. 6794

(2) A board of education may include in its budget for the 6795
fiscal year following the year in which a levy proposed under 6796
section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a 6797
property tax levy proposed under section 5748.09, or the 6798
original levy under section 5705.212 of the Revised Code is 6799
first extended on the tax list and duplicate an estimate of 6800
expenditures to be known as a voluntary contingency reserve 6801
balance, which shall not be greater than twenty per cent of the 6802
amount of the levy estimated to be available for appropriation 6803
in such year. 6804

(3) Except as provided in division (E) (4) of this section, 6805
the full amount of any reserve balance the board includes in its 6806
budget shall be retained by the county auditor and county 6807
treasurer out of the first semiannual settlement of taxes until 6808
the beginning of the next succeeding fiscal year, and thereupon, 6809
with the depository interest apportioned thereto, it shall be 6810
turned over to the board of education, to be used for the 6811
purposes of such fiscal year. 6812

(4) A board of education, by a two-thirds vote of all 6813

members of the board, may appropriate any amount withheld as a 6814
voluntary contingency reserve balance during the fiscal year for 6815
any lawful purpose, provided that prior to such appropriation 6816
the board of education has authorized the expenditure of all 6817
amounts appropriated for contingencies under section 5705.40 of 6818
the Revised Code. Upon request by the board of education, the 6819
county auditor shall draw a warrant on the district's account in 6820
the county treasury payable to the district in the amount 6821
requested. 6822

~~(F) (1) A board of education may include a spending reserve 6823
in its budget for fiscal years ending on or before June 30, 6824
2002. The spending reserve shall consist of an estimate of 6825
expenditures not to exceed the district's spending reserve 6826
balance. A district's spending reserve balance is the amount by 6827
which the designated percentage of the district's estimated 6828
personal property taxes to be settled during the calendar year 6829
in which the fiscal year ends exceeds the estimated amount of 6830
personal property taxes to be so settled and received by the 6831
district during that fiscal year. Moneys from a spending reserve 6832
shall be appropriated in accordance with section 133.301 of the 6833
Revised Code. 6834~~

~~(2) For the purposes of computing a school district's 6835
spending reserve balance for a fiscal year, the designated 6836
percentage shall be as follows: 6837~~

~~(G) Except as otherwise provided in this division, the 6838
county budget commission shall not reduce the taxing authority 6839
of a subdivision as a result of the creation of a reserve 6840
balance account. Except as otherwise provided in this division, 6841
the county budget commission shall not consider the amount in a 6842
reserve balance account of a township, county, or municipal 6843~~

corporation as an unencumbered balance or as revenue for the 6844
purposes of division (E) (3) or (4) of section 5747.51 of the 6845
Revised Code. The county budget commission may require 6846
documentation of the reasonableness of the reserve balance held 6847
in any reserve balance account. The commission shall consider 6848
any amount in a reserve balance account that it determines to be 6849
unreasonable as unencumbered and as revenue for the purposes of 6850
section 5747.51 of the Revised Code and may take such amounts 6851
into consideration when determining whether to reduce the taxing 6852
authority of a subdivision. 6853

Sec. 5705.315. With respect to annexations granted on or 6854
~~after the effective date of this section~~ March 27, 2002, and 6855
during any tax year or years within which any territory annexed 6856
to a municipal corporation is part of a township, the minimum 6857
levy for the municipal corporation and township under section 6858
5705.31 of the Revised Code shall not be diminished, except that 6859
in the annexed territory and only during those tax year or 6860
years, and in order to preserve the minimum levies of 6861
overlapping subdivisions under section 5705.31 of the Revised 6862
Code so that the full amount of taxes within the ten-mill 6863
limitation may be levied to the extent possible, the minimum 6864
levy of the municipal corporation or township shall be the 6865
lowest of the following amounts: 6866

(A) An amount that when added to the minimum levies of the 6867
other overlapping subdivisions equals ten mills; 6868

(B) An amount equal to the minimum levy of the municipal 6869
corporation or township, provided the total minimum levy does 6870
not exceed ten mills. 6871

The municipal corporation and the township may enter into 6872
an agreement to determine the municipal corporation's and the 6873

township's minimum levy under this section. If it cannot be 6874
determined what minimum levy is available to each and no 6875
agreement has been entered into by the municipal corporation and 6876
township, the municipal corporation and township shall each 6877
receive one-half of the millage available for use within the 6878
portion of the territory annexed to the municipal corporation 6879
that remains part of the township. 6880

Sec. 5705.34. When the budget commission has completed its 6881
work with respect to a tax budget or other information required 6882
to be provided under section 5705.281 of the Revised Code, it 6883
shall certify its action to the taxing authority, together with 6884
an estimate by the county auditor of the rate of each tax 6885
necessary to be levied by the taxing authority within its 6886
subdivision, taxing unit, or, in the case of a qualifying 6887
library levy, within the library district or association library 6888
district, and what part thereof is in excess of, and what part 6889
within, the ten-mill tax limitation. The certification shall 6890
also indicate the date on which each tax levied by the taxing 6891
authority will expire. 6892

If a taxing authority levies a tax for a fixed sum of 6893
money or to pay debt charges for the tax year for which the tax 6894
budget is prepared, and a payment on account of that tax is 6895
payable to the taxing authority for the tax year under section 6896
5709.92 or 5709.93~~7~~ of the Revised Code, the county auditor, 6897
when estimating the rate at which the tax shall be levied in the 6898
current year, shall estimate the rate necessary to raise the 6899
required sum less the estimated amount of any such payments made 6900
for the tax year to a taxing unit for fixed-sum levies under 6901
those sections. The estimated rate shall be the rate of the levy 6902
that the budget commission certifies with its action under this 6903
section. 6904

Each taxing authority, by ordinance or resolution, shall 6905
authorize the necessary tax levies and certify them to the 6906
county auditor before the first day of October in each year, or 6907
at such later date as is approved by the tax commissioner, 6908
except that the certification by the legislative authority of 6909
the city of Cincinnati or by a board of education shall be made 6910
by the first day of April or at such later date as is approved 6911
by the commissioner, and except that a township board of park 6912
commissioners that is appointed by the board of township 6913
trustees and oversees a township park district that contains 6914
only unincorporated territory shall authorize only those taxes 6915
approved by, and only at the rate approved by, the board of 6916
township trustees as required by division (C) of section 511.27 6917
of the Revised Code. If the levying of a tax to be placed on the 6918
duplicate of the current year is approved by electors under 6919
sections 5705.01 to 5705.47 of the Revised Code; if the rate of 6920
a school district tax is increased due to the repeal of a school 6921
district income tax and property tax rate reduction at an 6922
election held pursuant to section 5748.04 of the Revised Code; 6923
or if refunding bonds to refund all or a part of the principal 6924
of bonds payable from a tax levy for the ensuing fiscal year are 6925
issued or sold and in the process of delivery, the budget 6926
commission shall reconsider and revise its action on the budget 6927
of the subdivision or school library district for whose benefit 6928
the tax is to be levied after the returns of such election are 6929
fully canvassed, or after the issuance or sale of such refunding 6930
bonds is certified to it. 6931

Sec. 5705.35. (A) The certification of the budget 6932
commission to the taxing authority of each subdivision or taxing 6933
unit, as set forth in section 5705.34 of the Revised Code, shall 6934
show the various funds of such subdivisions other than funds to 6935

be created by transfer and shall be filed by the county budget 6936
commission with such taxing authority on or before the first day 6937
of March in the case of school districts and the city of 6938
Cincinnati and on or before the first day of September in each 6939
year in the case of all other taxing authorities. There shall be 6940
set forth on the credit side of each fund the estimated 6941
unencumbered balances and receipts, and if a tax is to be levied 6942
for such fund, the estimated revenue to be derived therefrom, 6943
the rate of the levy, and what portion thereof is within, and 6944
what in excess of, the ten-mill tax limitation, and on the debit 6945
side, the total appropriations that may be made therefrom. 6946
Subject to division ~~(G)~~ (F) of section 5705.29 of the Revised 6947
Code, any reserve balance in an account established under 6948
section 5705.13 of the Revised Code for the purpose described in 6949
division (A)(1) of that section, and the principal of a 6950
nonexpendable trust fund established under section 5705.131 of 6951
the Revised Code and any additions to principal arising from 6952
sources other than the reinvestment of investment earnings 6953
arising from that fund, are not unencumbered balances for the 6954
purposes of this section. The balance in a reserve balance 6955
account established under section 5705.132 of the Revised Code 6956
is not an unencumbered balance for the purposes of this 6957
division. 6958

There shall be attached to the certification a summary, 6959
which shall be known as the "official certificate of estimated 6960
resources," that shall state the total estimated resources of 6961
each fund of the subdivision that are available for 6962
appropriation in the fiscal year, other than funds to be created 6963
by transfer, and a statement of the amount of the total tax 6964
duplicate of the school district to be used in the collection of 6965
taxes for the following calendar year. Before the end of the 6966

fiscal year, the taxing authority of each subdivision and other 6967
taxing unit shall revise its tax budget, if one was adopted, so 6968
that the total contemplated expenditures from any fund during 6969
the ensuing fiscal year will not exceed the total appropriations 6970
that may be made from such fund, as determined by the budget 6971
commission in its certification; and such revised budget shall 6972
be the basis of the annual appropriation measure. 6973

~~(B) (1) Except as otherwise provided in division (B) (2) of~~ 6974
~~this section, revenues Revenue from real property taxes~~ 6975
scheduled to be settled on or before the tenth day of August and 6976
the fifteenth day of February of a fiscal year under divisions 6977
(A) and (C) of section 321.24 of the Revised Code, ~~and revenue~~ 6978
~~from taxes levied on personal property used in business~~ 6979
~~scheduled to be settled on or before the thirty first day of~~ 6980
~~October and the thirtieth day of June of a fiscal year under~~ 6981
~~divisions (B) and (D) of section 321.24 of the Revised Code~~ 6982
shall not be available for appropriation by a board of education 6983
prior to the fiscal year in which such latest scheduled 6984
settlement date occurs, except that moneys advanced to the 6985
treasurer of a board of education under division (A) (2) (b) of 6986
section 321.34 of the Revised Code shall be available for 6987
appropriation in the fiscal year in which they are paid to the 6988
treasurer under such section. If the date for any settlement of 6989
taxes is extended under division (E) of section 321.24 of the 6990
Revised Code, the latest date set forth in divisions (A) to (D) 6991
of that section shall be used to determine in which fiscal year 6992
the revenues are first available for appropriation. 6993

~~(2) Revenues available for appropriation by a school~~ 6994
~~district during a fiscal year may include amounts borrowed in~~ 6995
~~that fiscal year under section 133.301 of the Revised Code in~~ 6996
~~anticipation of the collection of taxes that are to be included~~ 6997

~~in the settlements made under divisions (C) and (D) of section
321.24 of the Revised Code in the ensuing fiscal year.~~ 6998
6999

Sec. 5705.36. (A) (1) On or about the first day of each 7000
fiscal year, the fiscal officer of each subdivision and other 7001
taxing unit shall certify to the county auditor the total amount 7002
from all sources available for expenditures from each fund set 7003
up in the tax budget or, if adoption of a tax budget was waived 7004
under section 5705.281 of the Revised Code, from each fund 7005
created by or on behalf of the taxing authority. The amount 7006
certified shall include any unencumbered balances that existed 7007
at the end of the preceding year, excluding any of the 7008
following: 7009

(a) Subject to division ~~(G)~~ (F) of section 5705.29 of the 7010
Revised Code, any reserve balance in an account established 7011
under section 5705.13 of the Revised Code for the purpose 7012
described in division (A) (1) of that section; 7013

(b) The principal of a nonexpendable trust fund 7014
established under section 5705.131 of the Revised Code and any 7015
additions to principal arising from sources other than the 7016
reinvestment of investment earnings arising from that fund; 7017

(c) The balance in a reserve balance account established 7018
under section 5705.132 of the Revised Code. 7019

A school district's certification shall separately show 7020
the amount of any notes and unpaid and outstanding expenses on 7021
the preceding thirtieth day of June that are to be paid from 7022
property taxes that are to be settled during the current fiscal 7023
year under divisions (C) and (D) of section 321.24 of the 7024
Revised Code, ~~and the amount of any spending reserve available
for appropriation during the current fiscal year under section~~ 7025
7026

~~133.301 of the Revised Code.~~ The budget commission, taking into 7027
consideration the balances and revenues to be derived from 7028
taxation and other sources, shall revise its estimate of the 7029
amounts that will be credited to each fund from such sources, 7030
and shall certify to the taxing authority of each subdivision an 7031
amended official certificate of estimated resources. 7032

(2) Subject to divisions (A) (3) and (4) of this section, 7033
upon a determination by the fiscal officer of a subdivision that 7034
the revenue to be collected by the subdivision will be greater 7035
or less than the amount included in an official certificate, the 7036
fiscal officer may certify the amount of the deficiency or 7037
excess to the commission, and if the commission determines that 7038
the fiscal officer's certification is reasonable, the commission 7039
shall certify an amended official certificate reflecting the 7040
deficiency or excess. 7041

(3) Upon a determination by the fiscal officer of a 7042
subdivision that the revenue to be collected by the subdivision 7043
will be greater than the amount included in an official 7044
certificate and the legislative authority intends to appropriate 7045
and expend the excess revenue, the fiscal officer shall certify 7046
the amount of the excess to the commission, and if the 7047
commission determines that the fiscal officer's certification is 7048
reasonable, the commission shall certify an amended official 7049
certificate reflecting the excess. 7050

(4) Upon a determination by the fiscal officer of a 7051
subdivision that the revenue to be collected by the subdivision 7052
will be less than the amount included in an official certificate 7053
and that the amount of the deficiency will reduce available 7054
resources below the level of current appropriations, the fiscal 7055
officer shall certify the amount of the deficiency to the 7056

commission, and the commission shall certify an amended 7057
certificate reflecting the deficiency. 7058

(5) The total appropriations made during the fiscal year 7059
from any fund shall not exceed the amount set forth as available 7060
for expenditure from such fund in the official certificate of 7061
estimated resources, or any amendment thereof, certified prior 7062
to the making of the appropriation or supplemental 7063
appropriation. 7064

(B) At the time of settlement of taxes against which notes 7065
have been issued under ~~section 133.301 or division~~ (D) of 7066
section 133.10 of the Revised Code and at the time a tax 7067
duplicate is delivered pursuant to section 319.28 or 319.29 of 7068
the Revised Code, the county auditor shall determine whether the 7069
total amount to be distributed to each school district from such 7070
settlement or duplicate, when combined with the amounts to be 7071
distributed from any subsequent settlement, will increase or 7072
decrease the amount available for appropriation during the 7073
current fiscal year from any fund. The county auditor shall 7074
certify this finding to the budget commission, which shall 7075
certify an amended official certificate reflecting the finding 7076
or certify to the school district that no amended certificate 7077
needs to be issued. 7078

Sec. 5705.49. Wherever in the Revised Code the taxing 7079
~~authorities authority of any subdivision, as defined in section~~ 7080
~~5705.01 of the Revised Code, are~~ is authorized to levy taxes on 7081
the taxable property within a subdivision, or, in the case of a 7082
qualifying library levy, within a library district or 7083
association library district, such authority shall extend only 7084
to the levy of taxes on the taxable real and public utility 7085
property listed on general tax lists and duplicates provided for 7086

by section 319.28 of the Revised Code. Where the amount of 7087
indebtedness of any subdivision is limited by law with reference 7088
to the tax valuation or aggregate value of the property on the 7089
tax list and duplicate of such subdivision, such limitation 7090
shall be measured by the property listed on such general tax 7091
lists and duplicates in such subdivision. 7092

Sec. 5709.201. (A) Except as provided in divisions (C) (4) 7093
(a) and (c) of section 5709.22 and division (F) of section 7094
5709.25 of the Revised Code, a certificate issued under section 7095
5709.21, 5709.31, 5709.46, or 6111.31 of the Revised Code that 7096
was valid and in effect on ~~the effective date of this section~~ 7097
June 26, 2003, shall continue in effect subject to the law as it 7098
existed before that ~~effective~~ date. Division (C) (4) (b) of 7099
section 5709.22 of the Revised Code does not apply to any 7100
certificate issued by the tax commissioner before July 1, 2003. 7101

(B) Any applications pending on ~~the effective date of this~~ 7102
~~section~~ June 26, 2003, for which a certificate had not been 7103
issued on or before that ~~effective~~ date under section 6111.31 of 7104
the Revised Code shall be transferred to the tax commissioner 7105
for further administering. Sections 5709.20 to 5709.27 of the 7106
Revised Code apply to such pending applications, excluding the 7107
requirement of section 5709.212 of the Revised Code that 7108
applicants must pay the fee. 7109

(C) For applications pending on ~~the effective date of this~~ 7110
~~section~~ June 26, 2003, division (D) of section 5709.25 of the 7111
Revised Code allowing the commissioner to assess any additional 7112
tax notwithstanding any other time limitations imposed by law on 7113
the denied portion of the applicant's claim applies only to tax 7114
periods that would otherwise be open to assessment on that 7115
~~effective~~ date. 7116

Sec. 5709.43. (A) A municipal corporation that grants a 7117
tax exemption under section 5709.40 of the Revised Code shall 7118
establish a municipal public improvement tax increment 7119
equivalent fund into which shall be deposited service payments 7120
in lieu of taxes distributed to the municipal corporation under 7121
section 5709.42 of the Revised Code. If the legislative 7122
authority of the municipal corporation has adopted an ordinance 7123
under division (C) of section 5709.40 of the Revised Code, the 7124
municipal corporation shall establish at least one account in 7125
that fund with respect to ordinances adopted under division (B) 7126
of that section, and one account with respect to each incentive 7127
district created in an ordinance adopted under division (C) of 7128
that section. If an ordinance adopted under division (C) of 7129
section 5709.40 of the Revised Code also authorizes the use of 7130
service payments for housing renovations within the district, 7131
the municipal corporation shall establish separate accounts for 7132
the service payments designated for public infrastructure 7133
improvements and for the service payments authorized for the 7134
purpose of housing renovations. Money in an account of the 7135
municipal public improvement tax increment equivalent fund shall 7136
be used to finance the public infrastructure improvements 7137
designated in, or the housing renovations authorized by, the 7138
ordinance with respect to which the account is established; in 7139
the case of an account established with respect to an ordinance 7140
adopted under division (C) of that section, money in the account 7141
shall be used to finance the public infrastructure improvements 7142
designated, or the housing renovations authorized, for each 7143
incentive district created in the ordinance. Money in an account 7144
shall not be used to finance or support housing renovations that 7145
take place after the incentive district has expired. The 7146
municipal corporation also may deposit into any of those 7147
accounts municipal income tax revenue that has been designated 7148

by ordinance to finance the public infrastructure improvements 7149
and housing renovations. 7150

(B) A municipal corporation may establish an urban 7151
redevelopment tax increment equivalent fund, by resolution or 7152
ordinance of its legislative authority, into which shall be 7153
deposited service payments in lieu of taxes distributed to the 7154
municipal corporation by the county treasurer as provided in 7155
section 5709.42 of the Revised Code for improvements exempt from 7156
taxation pursuant to an ordinance adopted under section 5709.41 7157
of the Revised Code. Moneys deposited in the urban redevelopment 7158
tax increment equivalent fund shall be used for such purposes as 7159
are authorized in the resolution or ordinance establishing the 7160
fund. The municipal corporation also may deposit into the urban 7161
redevelopment tax increment equivalent fund municipal income tax 7162
revenue that has been dedicated to fund any of the purposes for 7163
which the fund is established. 7164

(C) (1) (a) A municipal corporation may distribute money in 7165
the municipal public improvement tax increment equivalent fund 7166
or the urban redevelopment tax increment equivalent fund to any 7167
school district in which the exempt property is located, in an 7168
amount not to exceed the amount of real property taxes that such 7169
school district would have received from the improvement if it 7170
were not exempt from taxation, or use money in either or both 7171
funds to finance specific public improvements benefiting the 7172
school district. The resolution or ordinance establishing the 7173
fund shall set forth the percentage of such maximum amount that 7174
will be distributed to any affected school district or used to 7175
finance specific public improvements benefiting the school 7176
district. 7177

(b) A municipal corporation also may distribute money in 7178

the municipal public improvement tax increment equivalent fund 7179
or the urban redevelopment tax increment equivalent fund as 7180
follows: 7181

(i) To a board of county commissioners, in the amount that 7182
is owed to the board pursuant to division (E) of section 5709.40 7183
of the Revised Code; 7184

(ii) To a county in accordance with section 5709.913 of 7185
the Revised Code. 7186

(2) Money from an account in a municipal public 7187
improvement tax increment equivalent fund or from an urban 7188
redevelopment tax increment equivalent fund may be distributed 7189
under division (C) (1) (b) of this section, regardless of the date 7190
a resolution or an ordinance was adopted under section 5709.40 7191
or 5709.41 of the Revised Code that prompted the establishment 7192
of the account or the establishment of the urban redevelopment 7193
tax increment equivalent fund, even if the resolution or 7194
ordinance was adopted prior to ~~the effective date of this~~ 7195
~~amendment~~ March 30, 2006. 7196

(D) Any incidental surplus remaining in the municipal 7197
public improvement tax increment equivalent fund or an account 7198
of that fund, or in the urban redevelopment tax increment 7199
equivalent fund, upon dissolution of the account or fund shall 7200
be transferred to the general fund of the municipal corporation. 7201

Sec. 5709.48. (A) As used in this section: 7202

(1) "Regional transportation improvement project" has the 7203
same meaning as in section 5595.01 of the Revised Code. 7204

(2) "Improvements" means the increase in the assessed 7205
value of any real property that would first appear on the tax 7206
list and duplicate of real and public utility property after the 7207

effective date of the resolution adopted under this section were 7208
it not for the exemption granted by that resolution. 7209

(B) For the purposes described in division (A) of section 7210
5595.06 of the Revised Code, the governing board of a regional 7211
transportation improvement project that was undertaken pursuant 7212
to section 5595.02 of the Revised Code before ~~the effective date~~ 7213
~~of the amendment of this section by S.B. 8 of the 132nd general~~ 7214
~~assembly March 23, 2018,~~ may, by resolution, create a 7215
transportation financing district and declare improvements to 7216
parcels within the district to be a public purpose and exempt 7217
from taxation. 7218

(C) A transportation financing district may include 7219
territory in more than one county as long as each such county is 7220
a participant in the regional transportation improvement project 7221
funded by the district. A district shall not include parcels 7222
used primarily for residential purposes. A district shall not 7223
include any parcel that is currently exempt from taxation under 7224
this section or section 5709.40, 5709.41, 5709.45, 5709.73, or 7225
5709.77 of the Revised Code. The governing board may designate 7226
parcels within the boundaries of a district that are not to be 7227
included in the district. The governing board may designate 7228
noncontiguous parcels located outside the boundaries of the 7229
district that are to be included in the district. 7230

The governing board may adopt more than one resolution 7231
under division (B) of this section. A single such resolution may 7232
create more than one transportation financing district. 7233

(D) A resolution creating a transportation financing 7234
district shall specify all of the following: 7235

(1) A description of the territory included in the 7236

district; 7237

(2) The county treasurer's permanent parcel number 7238
associated with each parcel included in the district; 7239

(3) The percentage of improvements to be exempted from 7240
taxation and the duration of the exemption, which shall not 7241
exceed the remaining number of years the cooperative agreement 7242
for the regional transportation improvement district, described 7243
under section 5595.03 of the Revised Code, is in effect; 7244

(4) A plan for the district that describes the principal 7245
purposes and goals to be served by the district and explains how 7246
the use of service payments provided for by section 5709.49 of 7247
the Revised Code will economically benefit owners of property 7248
within the district. 7249

(E) (1) Except as otherwise provided in divisions (E) (2) 7250
and (3) of this section, the governing board, before adopting a 7251
resolution under division (B) of this section, shall notify and 7252
obtain the approval of each subdivision and taxing unit that 7253
levies a property tax within the territory of the proposed 7254
transportation financing district. A subdivision or taxing 7255
unit's approval or disapproval of the proposed district shall be 7256
in the form of an ordinance or resolution. The governing board 7257
may negotiate an agreement with a subdivision or taxing unit 7258
providing for compensation equal in value to a percentage of the 7259
amount of taxes exempted or some other mutually agreeable 7260
compensation. 7261

(2) A subdivision or taxing unit may adopt an ordinance or 7262
resolution waiving its right to approve or receive notice of 7263
transportation financing districts proposed under this section. 7264
If a subdivision or taxing unit has adopted such an ordinance or 7265

resolution, the terms of that ordinance or resolution supersede 7266
the requirements of division (E) (1) of this section. The 7267
governing board may negotiate an agreement with a subdivision or 7268
taxing unit providing for some mutually agreeable compensation 7269
in exchange for the subdivision or taxing unit adopting such an 7270
ordinance or resolution. If a subdivision or taxing unit has 7271
adopted such an ordinance or resolution, it shall certify a copy 7272
to the governing board. If the subdivision or taxing unit 7273
rescinds such an ordinance or resolution, it shall certify 7274
notice of the rescission to the governing board. 7275

(3) The governing board need not obtain the approval of a 7276
subdivision or taxing unit if the governing board agrees to 7277
compensate that subdivision or unit for the full amount of taxes 7278
exempted under the resolution creating the district. 7279

(F) After complying with division (E) of this section, the 7280
governing board shall notify and obtain the approval of every 7281
real property owner whose property is included in the proposed 7282
transportation financing district. 7283

(G) (1) Upon adopting a resolution creating a 7284
transportation financing district, the governing board shall 7285
send a copy of the resolution and documentation sufficient to 7286
prove that the requirements of divisions (E) and (F) of this 7287
section have been met to the director of development services. 7288
The director shall evaluate the resolution and documentation to 7289
determine if the governing board has fully complied with the 7290
requirements of this section. If the director approves the 7291
resolution, the director shall send notice of approval to the 7292
governing board. If the director does not approve the 7293
resolution, the director shall send a notice of denial to the 7294
governing board that includes the reason or reasons for the 7295

denial. If the director does not make a determination within 7296
ninety days after receiving a resolution under this section, the 7297
director is deemed to have approved the resolution. No 7298
resolution creating a transportation financing district is 7299
effective without actual or constructive approval by the 7300
director under this section. 7301

(2) An exemption from taxation granted under this section 7302
commences with the tax year specified in the resolution so long 7303
as the year specified in the resolution commences after the 7304
effective date of the resolution. If the resolution specifies a 7305
year commencing before the effective date of the resolution or 7306
specifies no year whatsoever, the exemption commences with the 7307
tax year in which an exempted improvement first appears on the 7308
tax list and that commences after the effective date of the 7309
resolution. 7310

(3) Except as otherwise provided in this division, the 7311
exemption ends on the date specified in the resolution as the 7312
date the improvement ceases to be a public purpose or the 7313
regional transportation improvement project funded by the 7314
service payments dissolves under section 5595.13 of the Revised 7315
Code, whichever occurs first. Exemptions shall be claimed and 7316
allowed in the same manner as in the case of other real property 7317
exemptions. If an exemption status changes during a year, the 7318
procedure for the apportionment of the taxes for that year is 7319
the same as in the case of other changes in tax exemption status 7320
during the year. 7321

(H) The resolution creating a transportation financing 7322
district may be amended at any time by majority vote of the 7323
governing board and with the approval of the director of 7324
development services obtained in the same manner as approval of 7325

the original resolution. 7326

Sec. 5709.53. (A) A solar, wind, or hydrothermal energy 7327
system on which construction or installation is completed during 7328
the period from ~~the effective date of this section~~ August 14, 7329
1979, through December 31, 1985, that meets the guidelines 7330
established under division (B) of section 1551.20 of the Revised 7331
Code is exempt from real property taxation. 7332

(B) Any fixture or other real property included in an 7333
energy facility with an aggregate nameplate capacity of two 7334
hundred fifty kilowatts or less is exempt from taxation if 7335
construction or installation is completed on or after January 1, 7336
2010. 7337

As used in division (B) of this section, "energy facility" 7338
and "nameplate capacity" have the same meanings as in section 7339
5727.01 of the Revised Code. 7340

Sec. 5709.61. As used in sections 5709.61 to 5709.69 of 7341
the Revised Code: 7342

(A) "Enterprise zone" or "zone" means any of the 7343
following: 7344

(1) An area with a single continuous boundary designated 7345
in the manner set forth in section 5709.62 or 5709.63 of the 7346
Revised Code and certified by the director of development as 7347
having a population of at least four thousand according to the 7348
best and most recent data available to the director and having 7349
at least two of the following characteristics: 7350

(a) It is located in a municipal corporation defined by 7351
the United States office of management and budget as a principal 7352
city of a metropolitan statistical area; 7353

(b) It is located in a county designated as being in the 7354
"Appalachian region" under the "Appalachian Regional Development 7355
Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended; 7356

(c) Its average rate of unemployment, during the most 7357
recent twelve-month period for which data are available, is 7358
equal to at least one hundred twenty-five per cent of the 7359
average rate of unemployment for the state of Ohio for the same 7360
period; 7361

(d) There is a prevalence of commercial or industrial 7362
structures in the area that are vacant or demolished, or are 7363
vacant and the taxes charged thereon are delinquent, and 7364
certification of the area as an enterprise zone would likely 7365
result in the reduction of the rate of vacant or demolished 7366
structures or the rate of tax delinquency in the area; 7367

(e) The population of all census tracts in the area, 7368
according to the federal census of 2000, decreased by at least 7369
ten per cent between the years 1980 and 2000; 7370

(f) At least fifty-one per cent of the residents of the 7371
area have incomes of less than eighty per cent of the median 7372
income of residents of the municipal corporation or municipal 7373
corporations in which the area is located, as determined in the 7374
same manner specified under section 119(b) of the "Housing and 7375
Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 7376
5318, as amended; 7377

(g) The area contains structures previously used for 7378
industrial purposes, but currently not so used due to age, 7379
obsolescence, deterioration, relocation of the former occupant's 7380
operations, or cessation of operations resulting from 7381
unfavorable economic conditions either generally or in a 7382

specific economic sector; 7383

(h) It is located within one or more adjacent city, local, 7384
or exempted village school districts, the income-weighted tax 7385
capacity of each of which is less than seventy per cent of the 7386
average of the income-weighted tax capacity of all city, local, 7387
or exempted village school districts in the state according to 7388
the most recent data available to the director from the 7389
department of taxation. 7390

The director of development shall adopt rules in 7391
accordance with Chapter 119. of the Revised Code establishing 7392
conditions constituting the characteristics described in 7393
divisions (A) (1) (d), (g), and (h) of this section. 7394

If an area could not be certified as an enterprise zone 7395
unless it satisfied division (A) (1) (g) of this section, the 7396
legislative authority may enter into agreements in that zone 7397
under section 5709.62, 5709.63, or 5709.632 of the Revised Code 7398
only if such agreements result in the development of the 7399
facilities described in that division, the parcel of land on 7400
which such facilities are situated, or adjacent parcels. The 7401
director of development annually shall review all agreements in 7402
such zones to determine whether the agreements have resulted in 7403
such development; if the director determines that the agreements 7404
have not resulted in such development, the director immediately 7405
shall revoke certification of the zone and notify the 7406
legislative authority of such revocation. Any agreements entered 7407
into prior to revocation under this paragraph shall continue in 7408
effect for the period provided in the agreement. 7409

(2) An area with a single continuous boundary designated 7410
in the manner set forth in section 5709.63 of the Revised Code 7411
and certified by the director of development as having all of 7412

the following characteristics: 7413

(a) Being located within a county that contains a 7414
population of three hundred thousand or less; 7415

(b) Having a population of at least one thousand according 7416
to the best and most recent data available to the director; 7417

(c) Having at least two of the characteristics described 7418
in divisions (A) (1) (b) to (h) of this section. 7419

(3) An area with a single continuous boundary designated 7420
in the manner set forth under division (A) (1) of section 7421
5709.632 of the Revised Code and certified by the director of 7422
development as having a population of at least four thousand, or 7423
under division (A) (2) of that section and certified as having a 7424
population of at least one thousand, according to the best and 7425
most recent data available to the director. 7426

(B) "Enterprise" means any form of business organization 7427
including, but not limited to, any partnership, sole 7428
proprietorship, or corporation, including an S corporation as 7429
defined in section 1361 of the Internal Revenue Code and any 7430
corporation that is majority ~~work-owned~~ worker-owned either 7431
directly through the ownership of stock or indirectly through 7432
participation in an employee stock ownership plan. 7433

(C) "Facility" means an enterprise's place of business in 7434
a zone, including land, buildings, machinery, equipment, and 7435
other materials, except inventory, used in business. "Facility" 7436
includes land, buildings, machinery, production and station 7437
equipment, other equipment, and other materials, except 7438
inventory, used in business to generate electricity, provided 7439
that, for purposes of sections 5709.61 to 5709.69 of the Revised 7440
Code, the value of the property at such a facility shall be 7441

reduced by the value, if any, that is not apportioned under 7442
section 5727.15 of the Revised Code to the taxing district in 7443
which the facility is physically located. In the case of such a 7444
facility that is physically located in two adjacent taxing 7445
districts, the property located in each taxing district 7446
constitutes a separate facility. 7447

"Facility" does not include any portion of an enterprise's 7448
place of business used primarily for making retail sales unless 7449
the place of business is located in an impacted city as defined 7450
in section 1728.01 of the Revised Code or the board of education 7451
of the city, local, or exempted village school district within 7452
the territory of which the place of business is located adopts a 7453
resolution waiving the exclusion of retail facilities under 7454
section 5709.634 of the Revised Code. 7455

(D) "Vacant facility" means a facility that has been 7456
vacant for at least ninety days immediately preceding the date 7457
on which an agreement is entered into under section 5709.62 or 7458
5709.63 of the Revised Code. 7459

(E) "Expand" means to make expenditures to add land, 7460
buildings, machinery, equipment, or other materials, except 7461
inventory, to a facility that equal at least ten per cent of the 7462
market value of the facility prior to such expenditures, as 7463
determined for the purposes of local property taxation. 7464

(F) "Renovate" means to make expenditures to alter or 7465
repair a facility that equal at least fifty per cent of the 7466
market value of the facility prior to such expenditures, as 7467
determined for the purposes of local property taxation. 7468

(G) "Occupy" means to make expenditures to alter or repair 7469
a vacant facility equal to at least twenty per cent of the 7470

market value of the facility prior to such expenditures, as 7471
determined for the purposes of local property taxation. 7472

(H) "Project site" means all or any part of a facility 7473
that is newly constructed, expanded, renovated, or occupied by 7474
an enterprise. 7475

(I) "Project" means any undertaking by an enterprise to 7476
establish a facility or to improve a project site by expansion, 7477
renovation, or occupancy. 7478

(J) "Position" means the position of one full-time 7479
employee performing a particular set of tasks and duties. 7480

(K) "Full-time employee" means an individual who is 7481
employed for consideration by an enterprise for at least thirty- 7482
five hours a week, or who renders any other standard of service 7483
generally accepted by custom or specified by contract as full- 7484
time employment. 7485

(L) "New employee" means a full-time employee first 7486
employed by an enterprise at a facility that is a project site 7487
after the enterprise enters an agreement under section 5709.62 7488
or 5709.63 of the Revised Code. "New employee" does not include 7489
an employee if, immediately prior to being employed by the 7490
enterprise, the employee was employed by an enterprise that is a 7491
related member or predecessor enterprise of that enterprise. 7492

(M) "Unemployed person" means any person who is totally 7493
unemployed in this state, as that term is defined in division 7494
(M) of section 4141.01 of the Revised Code, for at least ten 7495
consecutive weeks immediately preceding that person's employment 7496
at a facility that is a project site, or who is so unemployed 7497
for at least twenty-six of the fifty-two weeks immediately 7498
preceding that person's employment at such a facility. 7499

(N) "JTPA eligible employee" means any individual who is 7500
eligible for employment or training under the "Job Training 7501
Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as 7502
amended. 7503

(O) "First used in business" means that the property 7504
referred to has not been used in business in this state by the 7505
enterprise that owns it, or by an enterprise that is a related 7506
member or predecessor enterprise of such an enterprise, other 7507
than as inventory, prior to being used in business at a facility 7508
as the result of a project. 7509

(P) "Training program" means any noncredit training 7510
program or course of study that is offered by any state college 7511
or university; university branch district; community college; 7512
technical college; nonprofit college or university certified 7513
under section 1713.02 of the Revised Code; school district; 7514
joint vocational school district; school registered and 7515
authorized to offer programs under section 3332.05 of the 7516
Revised Code; an entity administering any federal, state, or 7517
local adult education and training program; or any enterprise; 7518
and that meets all of the following requirements: 7519

(1) It is approved by the director of development; 7520

(2) It is established or operated to satisfy the need of a 7521
particular industry or enterprise for skilled or semi-skilled 7522
employees; 7523

(3) An individual is required to complete the course or 7524
program before filling a position at a project site. 7525

(Q) "Development" means to engage in the process of 7526
clearing and grading land, making, installing, or constructing 7527
water distribution systems, sewers, sewage collection systems, 7528

steam, gas, and electric lines, roads, curbs, gutters, 7529
sidewalks, storm drainage facilities, and construction of other 7530
facilities or buildings equal to at least fifty per cent of the 7531
market value of the facility prior to the expenditures, as 7532
determined for the purposes of local property taxation. 7533

(R) "Large manufacturing facility" means a single Ohio 7534
facility that employed an average of at least one thousand 7535
individuals during the five calendar years preceding an 7536
agreement authorized under division (C) (3) of section 5709.62 or 7537
division (B) (2) of section 5709.63 of the Revised Code. For 7538
purposes of this division, both of the following apply: 7539

(1) A single Ohio manufacturing facility employed an 7540
average of at least one thousand individuals during the five 7541
calendar years preceding entering into such an agreement if one- 7542
fifth of the sum of the number of employees employed on the 7543
highest employment day during each of the five calendar years 7544
equals or exceeds one thousand. 7545

(2) The highest employment day is the day or days during a 7546
calendar year on which the number of employees employed at a 7547
single Ohio manufacturing facility was greater than on any other 7548
day during the calendar year. 7549

(S) "Business cycle" means the cycle of business activity 7550
usually regarded as passing through alternating stages of 7551
prosperity and depression. 7552

(T) "Making retail sales" means the effecting of point-of- 7553
final-purchase transactions at a facility open to the consuming 7554
public, wherein one party is obligated to pay the price and the 7555
other party is obligated to provide a service or to transfer 7556
title to or possession of the item sold. 7557

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

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

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

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

(Y) "Successor enterprise" means an enterprise to which the assets or equity of another enterprise has been transferred, which transfer resulted in the full or partial nonrecognition of gain or loss, or resulted in a carryover basis, both as determined by rule adopted by the tax commissioner.

Sec. 5709.80. (A) The board of county commissioners of a 7587
county that receives service payments in lieu of taxes under 7588
section 5709.79 of the Revised Code shall establish a 7589
redevelopment tax equivalent fund into which those payments 7590
shall be deposited. Separate accounts shall be established in 7591
the fund for each resolution adopted by the board of county 7592
commissioners under section 5709.78 of the Revised Code. If the 7593
board of county commissioners has adopted a resolution under 7594
division (B) of that section, the county shall establish an 7595
account for each incentive district created in that resolution. 7596
If a resolution adopted under division (B) of section 5709.78 of 7597
the Revised Code also authorizes the use of service payments for 7598
housing renovations within the incentive district, the county 7599
shall establish separate accounts for the service payments 7600
designated for public infrastructure improvements and for the 7601
service payments authorized for the purpose of housing 7602
renovations. 7603

(B) Moneys deposited into each account of the fund shall 7604
be used by the county to pay the cost of constructing or 7605
repairing the public infrastructure improvements designated in, 7606
or the housing renovations authorized by, the resolution, or for 7607
each incentive district for which the account is established, to 7608
pay the interest on and principal of bonds or notes issued under 7609
division (B) of section 307.082 or division (A) of section 7610
5709.81 of the Revised Code, or for the purposes pledged under 7611
division (B) of section 5709.81 of the Revised Code. Money in an 7612
account shall not be used to finance or support housing 7613
renovations that take place after the incentive district has 7614
expired. 7615

(C) (1) (a) The board of county commissioners may distribute 7616
money in an account to any school district in which the exempt 7617

property is located in an amount not to exceed the amount of 7618
real property taxes that such school district would have 7619
received from the improvement if it were not exempt from 7620
taxation. The resolution under which an account is established 7621
shall set forth the percentage of such maximum amount that will 7622
be distributed to any affected school district. 7623

(b) A board of county commissioners also may distribute 7624
money in such an account as follows: 7625

(i) To a board of township trustees or legislative 7626
authority of a municipal corporation, as applicable, in the 7627
amount that is owed to the board of township trustees or 7628
legislative authority pursuant to division (D) of section 7629
5709.78 of the Revised Code; 7630

(ii) To a township in accordance with section 5709.914 of 7631
the Revised Code. 7632

(2) Money from an account in the redevelopment tax 7633
equivalent fund may be distributed under division (C) (1) (b) of 7634
this section, regardless of the date a resolution was adopted 7635
under section 5709.78 of the Revised Code that prompted the 7636
establishment of the account, even if the resolution was adopted 7637
prior to ~~the effective date of this amendment~~ March 30, 2006. 7638

(D) An account dissolves upon fulfillment of the purposes 7639
for which money in the account may be used. An incidental 7640
surplus remaining in an account upon its dissolution shall be 7641
transferred to the general fund of the county. 7642

Sec. 5709.85. (A) The legislative authority of a county, 7643
township, or municipal corporation that grants an exemption from 7644
taxation under Chapter 725. or 1728. or under section 3735.67, 7645
5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 7646

5709.73, or 5709.78 of the Revised Code shall create a tax 7647
incentive review council. The council shall consist of the 7648
following members: 7649

(1) In the case of a municipal corporation eligible to 7650
designate a zone under section 5709.62 or 5709.632 of the 7651
Revised Code, the chief executive officer or that officer's 7652
designee; a member of the legislative authority of the municipal 7653
corporation, appointed by the president of the legislative 7654
authority or, if the chief executive officer of the municipal 7655
corporation is the president, appointed by the president pro 7656
tempore of the legislative authority; the county auditor or the 7657
county auditor's designee; the chief financial officer of the 7658
municipal corporation or that officer's designee; an individual 7659
appointed by the board of education of each city, local, 7660
exempted village, and joint vocational school district to which 7661
the instrument granting the exemption applies; and two members 7662
of the public appointed by the chief executive officer of the 7663
municipal corporation with the concurrence of the legislative 7664
authority. At least four members of the council shall be 7665
residents of the municipal corporation, and at least one of the 7666
two public members appointed by the chief executive officer 7667
shall be a minority. As used in division (A)(1) of this section, 7668
a "minority" is an individual who is African-American, Hispanic, 7669
or Native American. 7670

(2) In the case of a county or a municipal corporation 7671
that is not eligible to designate a zone under section 5709.62 7672
or 5709.632 of the Revised Code, three members appointed by the 7673
board of county commissioners; two members from each municipal 7674
corporation to which the instrument granting the tax exemption 7675
applies, appointed by the chief executive officer with the 7676
concurrence of the legislative authority of the respective 7677

municipal corporations; two members of each township to which 7678
the instrument granting the tax exemption applies, appointed by 7679
the board of township trustees of the respective townships; the 7680
county auditor or the county auditor's designee; and an 7681
individual appointed by the board of education of each city, 7682
local, exempted village, and joint vocational school district to 7683
which the instrument granting the tax exemption applies. At 7684
least two members of the council shall be residents of the 7685
municipal corporations or townships to which the instrument 7686
granting the tax exemption applies. 7687

(3) In the case of a township in which improvements are 7688
declared a public purpose under section 5709.73 of the Revised 7689
Code, the board of township trustees; the county auditor or the 7690
county auditor's designee; and an individual appointed by the 7691
board of education of each city, local, exempted village, and 7692
joint vocational school district to which the instrument 7693
granting the exemption applies. 7694

(B) The county auditor or the county auditor's designee 7695
shall serve as the chairperson of the council. The council shall 7696
meet at the call of the chairperson. At the first meeting of the 7697
council, the council shall select a vice-chairperson. Attendance 7698
by a majority of the members of the council constitutes a quorum 7699
to conduct the business of the council. 7700

(C) (1) Annually, the tax incentive review council shall 7701
review all agreements granting exemptions from property taxation 7702
under Chapter 725. or 1728. or under section 3735.671, 5709.28, 7703
5709.62, 5709.63, or 5709.632 of the Revised Code, and any 7704
performance or audit reports required to be submitted pursuant 7705
to those agreements. The review shall include agreements 7706
granting such exemptions that were entered into prior to July 7707

22, 1994, that continue to be in force and applicable to the 7708
current year's property taxes. 7709

With respect to each agreement, other than an agreement 7710
entered into under section 5709.28 of the Revised Code, the 7711
council shall determine whether the owner of the exempted 7712
property has complied with the agreement, and may take into 7713
consideration any fluctuations in the business cycle unique to 7714
the owner's business. 7715

With respect to an agreement entered into under section 7716
5709.28 of the Revised Code, the council shall consist of the 7717
members described in division (A)(2) of this section and shall 7718
determine whether the agreement complies with the requirements 7719
of section 5709.28 of the Revised Code and whether a withdrawal, 7720
removal, or conversion of land from an agricultural security 7721
area established under Chapter 931. of the Revised Code has 7722
occurred in a manner that makes the exempted property no longer 7723
eligible for the exemption. 7724

On the basis of the determinations, on or before the first 7725
day of September of each year, the council shall submit to the 7726
legislative authority written recommendations for continuation, 7727
modification, or cancellation of each agreement. 7728

(2) Annually, the tax incentive review council shall 7729
review all exemptions from property taxation resulting from the 7730
declaration of public purpose improvements pursuant to section 7731
5709.40, 5709.41, 5709.45, 5709.73, or 5709.78 of the Revised 7732
Code. The review shall include such exemptions that were granted 7733
prior to July 22, 1994, that continue to be in force and 7734
applicable to the current year's property taxes. With respect to 7735
each improvement for which an exemption is granted, the council 7736
shall determine the increase in the true value of parcels of 7737

real property on which improvements have been undertaken as a 7738
result of the exemption; the value of improvements exempted from 7739
taxation as a result of the exemption; and the number of new 7740
employees or employees retained on the site of the improvement 7741
as a result of the exemption. 7742

Upon the request of a tax incentive review council, the 7743
county auditor, the housing officer appointed pursuant to 7744
section 3735.66 of the Revised Code, the owner of a new or 7745
remodeled structure or improvement, and the legislative 7746
authority of the county, township, or municipal corporation 7747
granting the exemption shall supply the council with any 7748
information reasonably necessary for the council to make the 7749
determinations required under division (C) of this section, 7750
including returns or reports filed pursuant to sections 5711.02, 7751
5711.13, and 5727.08 of the Revised Code. 7752

(D) Annually, the tax incentive review council shall 7753
review the compliance of each recipient of a tax exemption under 7754
Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 7755
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 7756
Revised Code with the nondiscriminatory hiring policies 7757
developed by the county, township, or municipal corporation 7758
under section 5709.832 of the Revised Code. Upon the request of 7759
the council, the recipient shall provide the council any 7760
information necessary to perform its review. On the basis of its 7761
review, the council may submit to the legislative authority 7762
written recommendations for enhancing compliance with the 7763
nondiscriminatory hiring policies. 7764

(E) A legislative authority that receives from a tax 7765
incentive review council written recommendations under division 7766
(C) (1) or (D) of this section shall, within sixty days after 7767

receipt, hold a meeting and vote to accept, reject, or modify 7768
all or any portion of the recommendations. 7769

(F) A tax incentive review council may request from the 7770
recipient of a tax exemption under Chapter 725. or 1728. or 7771
section 3735.67, 5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 7772
5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code any 7773
information reasonably necessary for the council to perform its 7774
review under this section. The request shall be in writing and 7775
shall be sent to the recipient by certified mail. Within ten 7776
days after receipt of the request, the recipient shall provide 7777
to the council the information requested. 7778

Sec. 5709.93. (A) As used in this section: 7779

(1) "Taxes charged and payable" means taxes charged and 7780
payable after the reduction required by section 319.301 of the 7781
Revised Code but before the reductions required by sections 7782
319.302 and 323.152 of the Revised Code. 7783

(2) "Threshold per cent" means two per cent for fiscal 7784
year 2016; and, for fiscal year 2017 and thereafter, the sum of 7785
the prior year's threshold per cent plus two percentage points. 7786

(3) "Public library" means a county, municipal, school 7787
district, or township public library that receives the proceeds 7788
of a tax levied under section 5705.23 of the Revised Code. 7789

(4) "Local taxing unit" means a subdivision or taxing 7790
unit, as defined in section 5705.01 of the Revised Code, a park 7791
district created under Chapter 1545. of the Revised Code, or a 7792
township park district established under section 511.23 of the 7793
Revised Code, but excludes school districts and joint vocational 7794
school districts. 7795

(5) "Municipal current expense allocation" means the sum 7796

of the payments received by a municipal corporation in calendar year 2014 for current expense levy losses under division (A) (1) (e) (ii) of section 5727.86 and division (A) (1) (c) (ii) of section 5751.22 of the Revised Code as they existed at that time.

(6) "Current expense allocation" means the sum of the payments received by a local taxing unit or public library in calendar year 2014 for current expense levy losses under division (A) (1) of section 5727.86 and divisions (A) (1) and (2) of section 5751.22 of the Revised Code as they existed at that time, less any reduction required under division (B) (2) of this section.

(7) "TPP inside millage debt levy loss" means payments made to local taxing units in calendar year 2014 under division (A) (3) of section 5751.22 of the Revised Code as that section existed at that time.

(8) "S.B. 3 inside millage debt levy loss" means payments made to local taxing units in calendar year 2014 under section (A) (4) of section 5727.86 of the Revised Code as that section existed at that time.

(9) "Qualifying levy" means a levy for which payment was made in calendar year 2014 under division (A) (1) of section 5727.86 and divisions (A) (1) and (2) of section 5751.22 of the Revised Code as they existed at that time.

(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 7826
division (A) (1) of section 5751.22 of the Revised Code as they 7827
existed at that time; 7828

(b) With respect to taxes levied by the county for mental 7829
health and developmental disability related purposes, the taxes 7830
charged and payable for such purposes against all property on 7831
the tax list of real and public utility property for tax year 7832
2014. 7833

(11) "Total resources," in the case of county senior 7834
services related functions, means the sum of the amounts in 7835
divisions (A) (11) (a) and (b) of this section less any reduction 7836
required under division (B) (1) of this section. 7837

(a) The sum of the payments received by the county for 7838
senior services related functions in calendar year 2014 under 7839
division (A) (1) of section 5727.86 and division (A) (1) of 7840
section 5751.22 of the Revised Code as they existed at that 7841
time; 7842

(b) With respect to taxes levied by the county for senior 7843
services related purposes, the taxes charged and payable for 7844
such purposes against all property on the tax list of real and 7845
public utility property for tax year 2014. 7846

(12) "Total resources," in the case of county children's 7847
services related functions, means the sum of the amounts in 7848
divisions (A) (12) (a) and (b) of this section less any reduction 7849
required under division (B) (1) of this section. 7850

(a) The sum of the payments received by the county for 7851
children's services related functions in calendar year 2014 7852
under division (A) (1) of section 5727.86 and division (A) (1) of 7853
section 5751.22 of the Revised Code as they existed at that 7854

time; 7855

(b) With respect to taxes levied by the county for 7856
children's services related purposes, the taxes charged and 7857
payable for such purposes against all property on the tax list 7858
of real and public utility property for tax year 2014. 7859

(13) "Total resources," in the case of county public 7860
health related functions, means the sum of the amounts in 7861
divisions (A) (13) (a) and (b) of this section less any reduction 7862
required under division (B) (1) of this section. 7863

(a) The sum of the payments received by the county for 7864
public health related functions in calendar year 2014 under 7865
division (A) (1) of section 5727.86 and division (A) (1) of 7866
section 5751.22 of the Revised Code as they existed at that 7867
time; 7868

(b) With respect to taxes levied by the county for public 7869
health related purposes, the taxes charged and payable for such 7870
purposes against all property on the tax list of real and public 7871
utility property for tax year 2014. 7872

(14) "Total resources," in the case of all county 7873
functions not included in divisions (A) (10) to (13) of this 7874
section, means the sum of the amounts in divisions (A) (14) (a) to 7875
(e) of this section less any reduction required under division 7876
(B) (1) or (2) of this section. 7877

(a) The sum of the payments received by the county for all 7878
other purposes in calendar year 2014 under division (A) (1) of 7879
section 5727.86 and division (A) (1) of section 5751.22 of the 7880
Revised Code as they existed at that time; 7881

(b) The county's percentage share of county undivided 7882
local government fund allocations as certified to the tax 7883

commissioner for calendar year 2015 by the county auditor under 7884
division (J) of section 5747.51 of the Revised Code or division 7885
(F) of section 5747.53 of the Revised Code multiplied by the 7886
total amount actually distributed in calendar year 2014 from the 7887
county undivided local government fund; 7888

(c) With respect to taxes levied by the county for all 7889
other purposes, the taxes charged and payable for such purposes 7890
against all property on the tax list of real and public utility 7891
property for tax year 2014, excluding taxes charged and payable 7892
for the purpose of paying debt charges; 7893

(d) The sum of the amounts distributed to the county in 7894
calendar year 2014 for the taxes levied pursuant to sections 7895
5739.021 and 5741.021 of the Revised Code; 7896

(e) The sum of amounts distributed to the county from the 7897
gross casino revenue county fund from July 2014 through April 7898
2015. 7899

(15) "Total resources," in the case of a municipal 7900
corporation, means the sum of the amounts in divisions (A) (15) 7901
(a) to (h) of this section less any reduction required under 7902
division (B) (1) or (2) of this section. 7903

(a) The sum of the payments received by the municipal 7904
corporation in calendar year 2014 for current expense levy 7905
losses under division (A) (1) of section 5727.86 and division (A) 7906
(1) of section 5751.22 of the Revised Code as they existed at 7907
that time; 7908

(b) The municipal corporation's percentage share of county 7909
undivided local government fund allocations as certified to the 7910
tax commissioner for calendar year 2015 by the county auditor 7911
under division (J) of section 5747.51 of the Revised Code or 7912

division (F) of section 5747.53 of the Revised Code multiplied 7913
by the total amount actually distributed in calendar year 2014 7914
from the county undivided local government fund; 7915

(c) The sum of the amounts distributed to the municipal 7916
corporation in calendar year 2014 pursuant to section 5747.50 of 7917
the Revised Code; 7918

(d) With respect to taxes levied by the municipal 7919
corporation, the taxes charged and payable against all property 7920
on the tax list of real and public utility property for 7921
municipal current expenses for tax year 2014; 7922

(e) The amount of admissions tax collected by the 7923
municipal corporation in calendar year 2013, or if such 7924
information has not yet been reported to the tax commissioner, 7925
in the most recent year before 2013 for which the municipal 7926
corporation has reported data to the commissioner; 7927

(f) The amount of income taxes collected by the municipal 7928
corporation in calendar year 2013 as certified to the tax 7929
commissioner under section 5747.50 of the Revised Code in 2013, 7930
or if such information has not yet been reported to the 7931
commissioner, in the most recent year before 2014 for which the 7932
municipal corporation has reported such data to the 7933
commissioner; 7934

(g) The sum of the amounts distributed to the municipal 7935
corporation from the gross casino revenue host city fund from 7936
July 2014 through April 2015; 7937

(h) The sum of the amounts distributed to the municipal 7938
corporation from the gross casino revenue county fund from July 7939
2014 through April 2015. 7940

(16) "Total resources," in the case of a township, means 7941

the sum of the amounts in divisions (A) (16) (a) to (c) of this 7942
section less any reduction required under division (B) (1) or (2) 7943
of this section. 7944

(a) The sum of the payments received by the township in 7945
calendar year 2014 pursuant to division (A) (1) of section 7946
5727.86 of the Revised Code and division (A) (1) of section 7947
5751.22 of the Revised Code as they existed at that time, 7948
excluding payments received for debt purposes; 7949

(b) The township's percentage share of county undivided 7950
local government fund allocations as certified to the tax 7951
commissioner for calendar year 2015 by the county auditor under 7952
division (J) of section 5747.51 of the Revised Code or division 7953
(F) of section 5747.53 of the Revised Code multiplied by the 7954
total amount actually distributed in calendar year 2014 from the 7955
county undivided local government fund; 7956

(c) With respect to taxes levied by the township, the 7957
taxes charged and payable against all property on the tax list 7958
of real and public utility property for tax year 2014 excluding 7959
taxes charged and payable for the purpose of paying debt charges 7960
or from levies imposed under section 5705.23 of the Revised 7961
Code. 7962

(17) "Total resources," in the case of a local taxing unit 7963
that is not a county, municipal corporation, township, or public 7964
library means the sum of the amounts in divisions (A) (17) (a) to 7965
(e) of this section less any reduction required under division 7966
(B) (1) of this section. 7967

(a) The sum of the payments received by the local taxing 7968
unit in calendar year 2014 pursuant to division (A) (1) of 7969
section 5727.86 of the Revised Code and division (A) (1) of 7970

section 5751.22 of the Revised Code as they existed at that 7971
time; 7972

(b) The local taxing unit's percentage share of county 7973
undivided local government fund allocations as certified to the 7974
tax commissioner for calendar year 2015 by the county auditor 7975
under division (J) of section 5747.51 of the Revised Code or 7976
division (F) of section 5747.53 of the Revised Code multiplied 7977
by the total amount actually distributed in calendar year 2014 7978
from the county undivided local government fund; 7979

(c) With respect to taxes levied by the local taxing unit, 7980
the taxes charged and payable against all property on the tax 7981
list of real and public utility property for tax year 2014 7982
excluding taxes charged and payable for the purpose of paying 7983
debt charges or from a levy imposed under section 5705.23 of the 7984
Revised Code; 7985

(d) The amount received from the tax commissioner during 7986
calendar year 2014 for sales or use taxes authorized under 7987
sections 5739.023 and 5741.022 of the Revised Code; 7988

(e) For institutions of higher education receiving tax 7989
revenue from a local levy, as identified in section 3358.02 of 7990
the Revised Code, the final state share of instruction 7991
allocation for fiscal year 2014 as calculated by the chancellor 7992
of higher education and reported to the state controlling board. 7993

(18) "Total resources," in the case of a county, municipal 7994
corporation, school district, or township public library that 7995
receives the proceeds of a tax levied under section 5705.23 of 7996
the Revised Code, means the sum of the amounts in divisions (A) 7997
(18) (a) to (d) of this section less any reduction required under 7998
division (B) (1) of this section. 7999

(a) The sum of the payments received by the county, 8000
municipal corporation, school district, or township public 8001
library in calendar year 2014 pursuant to sections 5727.86 and 8002
5751.22 of the Revised Code, as they existed at that time, for 8003
fixed-rate levy losses attributable to a tax levied under 8004
section 5705.23 of the Revised Code for the benefit of the 8005
public library; 8006

(b) The public library's percentage share of county 8007
undivided local government fund allocations as certified to the 8008
tax commissioner for calendar year 2015 by the county auditor 8009
under division (J) of section 5747.51 of the Revised Code or 8010
division (F) of section 5747.53 of the Revised Code multiplied 8011
by the total amount actually distributed in calendar year 2014 8012
from the county undivided local government fund; 8013

(c) With respect to a tax levied pursuant to section 8014
5705.23 of the Revised Code for the benefit of the public 8015
library, the amount of such tax that is charged and payable 8016
against all property on the tax list of real and public utility 8017
property for tax year 2014 excluding any tax that is charged and 8018
payable for the purpose of paying debt charges; 8019

(d) The sum of the amounts distributed to the library 8020
district from the county public library fund in calendar year 8021
2014, as reported to the tax commissioner by the county auditor. 8022

(19) "Municipal current expense property tax levies" means 8023
all property tax levies of a municipality, except those with the 8024
following levy names: library; airport resurfacing; bond or any 8025
levy name including the word "bond"; capital improvement or any 8026
levy name including the word "capital"; debt or any levy name 8027
including the word "debt"; equipment or any levy name including 8028
the word "equipment," unless the levy is for combined operating 8029

and equipment; employee termination fund; fire pension or any 8030
levy containing the word "pension," including police pensions; 8031
fireman's fund or any practically similar name; sinking fund; 8032
road improvements or any levy containing the word "road"; fire 8033
truck or apparatus; flood or any levy containing the word 8034
"flood"; conservancy district; county health; note retirement; 8035
sewage, or any levy containing the words "sewage" or "sewer"; 8036
park improvement; parkland acquisition; storm drain; street or 8037
any levy name containing the word "street"; lighting, or any 8038
levy name containing the word "lighting"; and water. 8039

(20) "Operating fixed-rate levy loss" means, in the case 8040
of local taxing units other than municipal corporations, fixed- 8041
rate levy losses of levies imposed for purposes other than 8042
paying debt charges or, in the case of municipal corporations, 8043
fixed-rate levy losses of municipal current expense property tax 8044
levies. 8045

~~(22)~~(21) (a) "Qualifying municipal corporation" means a 8046
municipal corporation in the territory of which a qualifying end 8047
user is located. 8048

(b) "Qualifying end user" means an end user of at least 8049
seven million qualifying kilowatt hours of electricity annually. 8050

(c) "Qualifying kilowatt hours" means kilowatt hours of 8051
electricity generated by a renewable energy resource, as defined 8052
in section 5727.01 of the Revised Code, using wind energy and 8053
the distribution of which is subject to the tax levied under 8054
section 5727.81 of the Revised Code for any measurement period 8055
beginning after June 30, 2015. 8056

~~(23)~~(22) Any term used in this section has the same 8057
meaning as in section 5727.84 or 5751.20 of the Revised Code 8058

unless otherwise defined by this section. 8059

(B) (1) "Total resources" used to compute payments to be 8060
made under division (C) of this section shall be reduced to the 8061
extent that payments distributed in calendar year 2014 were 8062
attributable to levies no longer charged and payable. 8063

(2) "Current expense allocation" used to compute payments 8064
to be made under division (C) of this section shall be reduced 8065
to the extent that payments distributed in calendar year 2014 8066
were attributable to levies no longer charged and payable. 8067

(C) (1) Except as provided in ~~divisions~~division (D) of 8068
this section, the tax commissioner shall compute payments for 8069
operating fixed-rate levy losses of local taxing units and 8070
public libraries for fiscal year 2016 and each year thereafter 8071
as prescribed in divisions (C) (1) (a) and (b) ~~and~~ of this 8072
section: 8073

(a) For public libraries and local taxing units other than 8074
municipal corporations: 8075

(i) If the ratio of current expense allocation to total 8076
resources is equal to or less than the threshold per cent, zero; 8077

(ii) If the ratio of current expense allocation to total 8078
resources is greater than the threshold per cent, the current 8079
expense allocation minus the product of total resources 8080
multiplied by the threshold per cent. 8081

(b) For municipal corporations: 8082

(i) If the ratio of the municipal current expense 8083
allocation to total resources is equal to or less than the 8084
threshold per cent, zero; 8085

(ii) If the ratio of the municipal current expense 8086

allocation to total resources is greater than the threshold per 8087
cent, the municipal current expense allocation minus the product 8088
of total resources multiplied by the threshold per cent. 8089

~~(3)~~(2) For any local taxing unit or public library with 8090
operating fixed-rate levy losses greater than zero, the 8091
operating fixed-rate levy loss shall be allocated among all 8092
qualifying operating fixed-rate levies in proportion to each 8093
such levy's share of the payments received in tax year 2014. In 8094
fiscal year 2016 and thereafter, if a levy to which operating 8095
fixed-rate levy loss is allocated is no longer charged and 8096
payable, the payment to the local taxing unit or public library 8097
shall be reduced by the amount allocated to the levy that is no 8098
longer charged and payable. 8099

(D) (1) Except as provided in division (D) (2) of this 8100
section, the tax commissioner shall make payments to local 8101
taxing units equal to the sum of TPP inside millage debt levy 8102
loss and S.B. 3 inside millage debt levy loss. No payment shall 8103
be made if the levy for which the levy loss is computed is not 8104
charged and payable for debt purposes in fiscal year 2016 or any 8105
year thereafter. 8106

(2) No payment shall be made for TPP inside millage debt 8107
levy loss in calendar year 2018 or thereafter. No payment shall 8108
be made for S.B.3 inside millage debt levy loss in calendar year 8109
2017 or thereafter. 8110

(E) For a qualifying municipal corporation, the tax 8111
commissioner shall compute payments for fiscal year 2016 and 8112
each ensuing fiscal year in an amount equal to the amount of tax 8113
imposed under section 5727.81 of the Revised Code and paid on 8114
the basis of qualifying kilowatt hours of electricity 8115
distributed through the meter of a qualifying end user located 8116

in the municipal corporation for measurement periods ending in 8117
the preceding calendar year. The payment shall be computed 8118
regardless of whether the qualifying municipal corporation 8119
qualifies for a payment under any other division of this section 8120
for the fiscal year in which the payment is computed under this 8121
division. For the purposes of this division, the commissioner 8122
may require an electric distribution company distributing 8123
qualifying kilowatt hours or, if the end user is a self- 8124
assessing purchaser, the end user, to report to the commissioner 8125
the number of qualifying kilowatt hours distributed through the 8126
meter of the qualifying end user. 8127

(F) (1) The payments required to be made under divisions 8128
(C) and (D) of this section shall be paid from the local 8129
government tangible property tax replacement fund to the county 8130
undivided income tax fund in the proper county treasury. 8131
Beginning in August 2015, one-half of the amount determined 8132
under each of those divisions shall be paid on or before the 8133
last day of August each year, and one-half shall be paid on or 8134
before the last day of February each year. Within thirty days 8135
after receipt of such payments, the county treasurer shall 8136
distribute amounts determined under this section to the proper 8137
local taxing unit or public library as if they had been levied 8138
and collected as taxes, and the local taxing unit or public 8139
library shall allocate the amounts so received among its funds 8140
in the same proportions as if those amounts had been levied and 8141
collected as taxes. 8142

(2) On or before the last day of August and of February of 8143
each fiscal year that follows a calendar year in which taxes are 8144
paid on the basis of qualifying kilowatt hours of electricity 8145
distributed through the meter of a qualifying end user located 8146
in a qualifying municipal corporation, one-half of the payment 8147

computed under division (E) of this section shall be paid from 8148
the local government tangible personal property tax replacement 8149
fund directly to the qualifying municipal corporation. The 8150
municipal corporation shall credit the payments to a special 8151
fund created for the purpose of providing grants or other 8152
financial assistance to the qualifying end user or to compensate 8153
the municipal corporation for municipal income tax or other tax 8154
credits or reductions as the legislative authority may grant to 8155
the qualifying end user. Such grants or other financial 8156
assistance may be provided for by ordinance or resolution of the 8157
legislative authority of the qualifying municipal corporation 8158
and may continue for as long as is provided by the ordinance or 8159
resolution. 8160

(G) If all or a part of the territories of two or more 8161
local taxing units are merged, or unincorporated territory of a 8162
township is annexed by a municipal corporation, the tax 8163
commissioner shall adjust the payments made under this section 8164
to each of the local taxing units in proportion to the square 8165
mileage of the merged or annexed territory as a percentage of 8166
the total square mileage of the jurisdiction from which the 8167
territory originated, or as otherwise provided by a written 8168
agreement between the legislative authorities of the local 8169
taxing units certified to the commissioner not later than the 8170
first day of June of the calendar year in which the payment is 8171
to be made. 8172

Sec. 5713.03. The county auditor, from the best sources of 8173
information available, shall determine, as nearly as 8174
practicable, the true value of the fee simple estate, as if 8175
unencumbered but subject to any effects from the exercise of 8176
police powers or from other governmental actions, of each 8177
separate tract, lot, or parcel of real property and of 8178

buildings, structures, and improvements located thereon and the 8179
current agricultural use value of land valued for tax purposes 8180
in accordance with section 5713.31 of the Revised Code, in every 8181
district, according to the rules prescribed by this chapter and 8182
section 5715.01 of the Revised Code, and in accordance with the 8183
uniform rules and methods of valuing and assessing real property 8184
as adopted, prescribed, and promulgated by the tax commissioner. 8185
The auditor shall determine the taxable value of all real 8186
property by reducing its true or current agricultural use value 8187
by the percentage ordered by the commissioner. In determining 8188
the true value of any tract, lot, or parcel of real estate under 8189
this section, if such tract, lot, or parcel has been the subject 8190
of an arm's length sale between a willing seller and a willing 8191
buyer within a reasonable length of time, either before or after 8192
the tax lien date, the auditor may consider the sale price of 8193
such tract, lot, or parcel to be the true value for taxation 8194
purposes. However, the sale price in an arm's length transaction 8195
between a willing seller and a willing buyer shall not be 8196
considered the true value of the property sold if subsequent to 8197
the sale: 8198

(A) The tract, lot, or parcel of real estate loses value 8199
due to some casualty; 8200

(B) An improvement is added to the property. ~~Nothing~~ 8201

Nothing in this section or section 5713.01 of the Revised 8202
Code and no rule adopted under section 5715.01 of the Revised 8203
Code shall require the county auditor to change the true value 8204
in money of any property in any year except a year in which the 8205
tax commissioner is required to determine under section 5715.24 8206
of the Revised Code whether the property has been assessed as 8207
required by law. 8208

The county auditor shall adopt and use a real property record approved by the commissioner for each tract, lot, or parcel of real property, setting forth the true and taxable value of land and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value, the number of acres of arable land, permanent pasture land, woodland, and wasteland in each tract, lot, or parcel. The auditor shall record pertinent information and the true and taxable value of each building, structure, or improvement to land, which value shall be included as a separate part of the total value of each tract, lot, or parcel of real property.

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:

(A) "Land devoted exclusively to agricultural use" means:

(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:

(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the cultivation of hemp by a person issued a hemp cultivation license under section 928.02 of the Revised Code, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.

(b) The tracts, lots, or parcels of land were devoted 8239
exclusively to biodiesel production, biomass energy production, 8240
electric or heat energy production, or biologically derived 8241
methane gas production if the land on which the production 8242
facility is located is contiguous to or part of a parcel of land 8243
under common ownership that is otherwise devoted exclusively to 8244
agricultural use, provided that at least fifty per cent of the 8245
feedstock used in the production was derived from parcels of 8246
land under common ownership or leasehold. 8247

(c) The tracts, lots, or parcels of land were devoted to 8248
and qualified for payments or other compensation under a land 8249
retirement or conservation program under an agreement with an 8250
agency of the federal government. 8251

(2) Tracts, lots, or parcels of land totaling less than 8252
ten acres that, during the three calendar years prior to the 8253
year in which application is filed under section 5713.31 of the 8254
Revised Code and through the last day of May of such year, were 8255
devoted exclusively to commercial animal or poultry husbandry, 8256
aquaculture, algaculture meaning the farming of algae, 8257
apiculture, the cultivation of hemp by a person issued a hemp 8258
cultivation license under section 928.02 of the Revised Code, 8259
the production for a commercial purpose of field crops, tobacco, 8260
fruits, vegetables, timber, nursery stock, ornamental trees, 8261
sod, or flowers where such activities produced an average yearly 8262
gross income of at least twenty-five hundred dollars during such 8263
three-year period or where there is evidence of an anticipated 8264
gross income of such amount from such activities during the tax 8265
year in which application is made, or were devoted to and 8266
qualified for payments or other compensation under a land 8267
retirement or conservation program under an agreement with an 8268
agency of the federal government; 8269

~~(3) A tract, lot, or parcel of land taxed under sections 5713.22 to 5713.26 of the Revised Code is not land devoted exclusively to agricultural use.~~ 8270
8271
8272

~~(4)~~ Tracts, lots, or parcels of land, or portions thereof 8273
that, during the previous three consecutive calendar years have 8274
been designated as land devoted exclusively to agricultural use, 8275
but such land has been lying idle or fallow for up to one year 8276
and no action has occurred to such land that is either 8277
inconsistent with the return of it to agricultural production or 8278
converts the land devoted exclusively to agricultural use as 8279
defined in this section. Such land shall remain designated as 8280
land devoted exclusively to agricultural use provided that 8281
beyond one year, but less than three years, the landowner proves 8282
good cause as determined by the board of revision. 8283

~~(5)~~ (4) Tracts, lots, or parcels of land, or portions 8284
thereof that, during the previous three consecutive calendar 8285
years have been designated as land devoted exclusively to 8286
agricultural use, but such land has been lying idle or fallow 8287
because of dredged material being stored or deposited on such 8288
land pursuant to a contract between the land's owner and the 8289
department of natural resources or the United States army corps 8290
of engineers and no action has occurred to the land that is 8291
either inconsistent with the return of it to agricultural 8292
production or converts the land devoted exclusively to 8293
agricultural use. Such land shall remain designated as land 8294
devoted exclusively to agricultural use until the last year in 8295
which dredged material is stored or deposited on the land 8296
pursuant to such a contract, but not to exceed five years. 8297

"Land devoted exclusively to agricultural use" includes 8298
tracts, lots, or parcels of land or portions thereof that are 8299

used for conservation practices, provided that the tracts, lots, 8300
or parcels of land or portions thereof comprise twenty-five per 8301
cent or less of the total of the tracts, lots, or parcels of 8302
land that satisfy the criteria established in division (A) (1), 8303
(2), ~~(4)~~(3), or ~~(5)~~(4) of this section together with the 8304
tracts, lots, or parcels of land or portions thereof that are 8305
used for conservation practices. 8306

Notwithstanding any other provision of law to the 8307
contrary, the existence of agritourism on a tract, lot, or 8308
parcel of land that otherwise meets the definition of "land 8309
devoted exclusively to agricultural use" as defined in this 8310
division does not disqualify that tract, lot, or parcel from 8311
valuation under sections 5713.30 to 5713.37 and 5715.01 of the 8312
Revised Code. 8313

A tract, lot, or parcel of land taxed under sections 8314
5713.22 to 5713.26 of the Revised Code is not land devoted 8315
exclusively to agricultural use. 8316

A tract, lot, parcel, or portion thereof on which medical 8317
marijuana, as defined by section 3796.01 of the Revised Code, is 8318
cultivated or processed is not land devoted exclusively to 8319
agricultural use. 8320

(B) "Conversion of land devoted exclusively to 8321
agricultural use" means any of the following: 8322

(1) The failure of the owner of land devoted exclusively 8323
to agricultural use during the next preceding calendar year to 8324
file a renewal application under section 5713.31 of the Revised 8325
Code without good cause as determined by the board of revision; 8326

(2) The failure of the new owner of such land to file an 8327
initial application under that section without good cause as 8328

determined by the board of revision; 8329

(3) The failure of such land or portion thereof to qualify 8330
as land devoted exclusively to agricultural use for the current 8331
calendar year as requested by an application filed under such 8332
section; 8333

(4) The failure of the owner of the land described in 8334
division ~~(A) (4)~~ (A) (3) or ~~(5) (4)~~ of this section to act on such 8335
land in a manner that is consistent with the return of the land 8336
to agricultural production after three years. 8337

The construction or installation of an energy facility, as 8338
defined in section 5727.01 of the Revised Code, on a portion of 8339
a tract, lot, or parcel of land devoted exclusively to 8340
agricultural use shall not cause the remaining portion of the 8341
tract, lot, or parcel to be regarded as a conversion of land 8342
devoted exclusively to agricultural use if the remaining portion 8343
of the tract, lot, or parcel continues to be devoted exclusively 8344
to agricultural use. 8345

(C) "Tax savings" means the difference between the dollar 8346
amount of real property taxes levied in any year on land valued 8347
and assessed in accordance with its current agricultural use 8348
value and the dollar amount of real property taxes that would 8349
have been levied upon such land if it had been valued and 8350
assessed for such year in accordance with Section 2 of Article 8351
XII, Ohio Constitution. 8352

(D) "Owner" includes, but is not limited to, any person 8353
owning a fee simple, fee tail, or life estate or a buyer on a 8354
land installment contract. 8355

(E) "Conservation practices" are practices used to abate 8356
soil erosion as required in the management of the farming 8357

operation, and include, but are not limited to, the 8358
installation, construction, development, planting, or use of 8359
grass waterways, terraces, diversions, filter strips, field 8360
borders, windbreaks, riparian buffers, wetlands, ponds, and 8361
cover crops for that purpose. 8362

(F) "Wetlands" has the same meaning as in section 6111.02 8363
of the Revised Code. 8364

(G) "Biodiesel" means a mono-alkyl ester combustible 8365
liquid fuel that is derived from vegetable oils or animal fats 8366
or any combination of those reagents and that meets the American 8367
society for testing and materials specification D6751-03a for 8368
biodiesel fuel (B100) blend stock distillate fuels. 8369

(H) "Biologically derived methane gas" means gas from the 8370
anaerobic digestion of organic materials, including animal waste 8371
and agricultural crops and residues. 8372

(I) "Biomass energy" means energy that is produced from 8373
organic material derived from plants or animals and available on 8374
a renewable basis, including, but not limited to, agricultural 8375
crops, tree crops, crop by-products, and residues. 8376

(J) "Electric or heat energy" means electric or heat 8377
energy generated from manure, cornstalks, soybean waste, or 8378
other agricultural feedstocks. 8379

(K) "Dredged material" means material that is excavated or 8380
dredged from waters of this state. "Dredged material" does not 8381
include material resulting from normal farming, silviculture, 8382
and ranching activities, such as plowing, cultivating, seeding, 8383
and harvesting, for production of food, fiber, and forest 8384
products. 8385

(L) "Agritourism" has the same meaning as in section 8386

901.80 of the Revised Code. 8387

Sec. 5713.351. If the county auditor has determined under 8388
section 5713.35 of the Revised Code that a conversion of land 8389
has occurred with respect to any tract, lot, or parcel on the 8390
agricultural land tax list because of a failure to file an 8391
initial or renewal application, and if the auditor, upon 8392
application of the owner and payment by the owner of a twenty- 8393
five-dollar fee, finds that the land would be land devoted 8394
exclusively to agricultural use for the current year if the 8395
board of revision finds the failure arose for good cause, the 8396
owner may file a complaint against that determination with the 8397
board as provided in section 5715.19 of the Revised Code on the 8398
grounds that the tract, lot, or parcel is land devoted 8399
exclusively to agricultural use because there was good cause for 8400
the owner's failure to file an initial or renewal application. 8401
If the board finds that there was such good cause, the 8402
application under this section shall be considered an 8403
application that was properly filed under section 5713.31 of the 8404
Revised Code. 8405

Sec. 5715.13. (A) Except as provided in division (B) of 8406
this section, the county board of revision shall not decrease 8407
any valuation unless a party affected thereby or who is 8408
authorized to file a complaint under section 5715.19 of the 8409
Revised Code makes and files with the board a written 8410
application therefor, verified by oath and signature, showing 8411
the facts upon which it is claimed such decrease should be made. 8412

(B) The county board of revision may authorize a policy 8413
for the filing of an electronic complaint under section 5715.19 8414
of the Revised Code and the filing of an electronic application 8415
therefor under this section, subject to the approval of the tax 8416

commissioner. An electronic complaint need not be sworn to, but 8417
shall contain an electronic verification and shall be subscribed 8418
to by the person filing the complaint: "I declare under 8419
penalties of perjury that this complaint has been examined by me 8420
and to the best of my knowledge and belief is true, correct, and 8421
complete." 8422

Sec. 5715.36. (A) Any expense incurred by the tax 8423
commissioner as to the annual assessment of real property in any 8424
taxing district shall be paid out of the treasury of the county 8425
in which such district is located upon presentation of the order 8426
of the commissioner certifying the amount thereof to the county 8427
auditor, who shall thereupon issue a warrant therefor upon the 8428
general fund of the county and direct the warrant to the county 8429
treasurer, who shall pay the same. All money paid out of the 8430
county treasury under authority of this division and section 8431
5703.30 of the Revised Code shall be charged against the proper 8432
district, and amounts paid by the county shall be retained by 8433
the auditor from funds due such district at the time of making 8434
the semiannual distribution of taxes. 8435

(B) Any expense incurred by the board of tax appeals as to 8436
the hearing of any appeal from a county budget commission with 8437
respect to the allocation of the local government fund or the 8438
county public library fund shall be paid out of the treasury of 8439
the county involved upon presentation of the order of the board 8440
certifying the amount thereof to the county auditor, who shall 8441
thereupon issue a warrant therefor upon the general fund of the 8442
county and direct the warrant to the county treasurer, who shall 8443
pay the same. At the time the local government fund or the 8444
county public library fund is distributed, all money which had 8445
been paid out of the county treasury for such expenses shall be 8446
deducted by the county auditor from the fund involved in the 8447

appeal. The amount so deducted by the county auditor shall be 8448
forthwith returned to the general fund of the county. 8449

(C) An amount equal to the sum of the expenses incurred by 8450
the board of tax appeals as to any of the following shall be 8451
paid out of the general fund of the county in which such 8452
property is located upon presentation of the order of the board 8453
certifying the amount thereof to the county auditor, who shall 8454
thereupon issue a warrant therefor upon the general fund of the 8455
county and direct the warrant to the county treasurer, who shall 8456
pay the same: 8457

(1) The hearing of any appeal from a county board of 8458
revision under section 5717.01 of the Revised Code; 8459

(2) An appeal from any finding, computation, 8460
determination, or order of the tax commissioner made with 8461
respect to the assessment or exemption of real property under 8462
~~division (B) of section 5715.61 and section 5717.02~~ of the 8463
Revised Code. At the time of each settlement of taxes under 8464
divisions (A) and (C) of section 321.24 of the Revised Code, 8465
there shall be deducted from the taxes included in such 8466
settlement and paid into the county general fund in the same 8467
manner as the fees allowed the county treasurer on amounts 8468
included in such settlement, the amounts paid out under this 8469
division since the preceding settlement. Each deduction shall be 8470
apportioned among the taxing districts within which the property 8471
that was the subject of the appeal is located in proportion to 8472
their relative shares of their respective taxes included in the 8473
settlement. 8474

Sec. 5721.06. (A) (1) The form of the notice required to be 8475
attached to the published delinquent tax list by division (B) (3) 8476
of section 5721.03 of the Revised Code shall be in substance as 8477

follows: 8478

"DELINQUENT LAND TAX NOTICE 8479

The lands, lots, and parts of lots returned delinquent by 8480
the county treasurer of _____ county, with the 8481
taxes, assessments, interest, and penalties, charged against 8482
them agreeably to law, are contained and described in the 8483
following list: (Here insert the list with the names of the 8484
owners of such respective tracts of land or town lots as 8485
designated on the delinquent tax list. If, prior to seven days 8486
before the publication of the list, a delinquent tax contract 8487
has been entered into under section 323.31 of the Revised Code, 8488
the owner's name may be stricken from the list or designated by 8489
an asterisk shown in the margin next to the owner's name.) 8490

Notice is hereby given that the whole of such several 8491
lands, lots, or parts of lots will be certified for foreclosure 8492
by the county auditor pursuant to law unless the whole of the 8493
delinquent taxes, assessments, interest, and penalties are paid 8494
within one year or unless a tax certificate with respect to the 8495
parcel is sold under section 5721.32 or 5721.33 of the Revised 8496
Code. The names of persons who have entered into a written 8497
delinquent tax contract with the county treasurer to discharge 8498
the delinquency are designated by an asterisk or have been 8499
stricken from the list." 8500

(2) If the county treasurer has certified to the county 8501
auditor that the treasurer intends to offer for sale or assign a 8502
tax certificate with respect to one or more parcels of 8503
delinquent land under section 5721.32 or 5721.33 of the Revised 8504
Code, the form of the notice shall include the following 8505
statement, appended after the second paragraph of the notice 8506
prescribed by division (A) (1) of this section: 8507

"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, assessments, interest, and penalties charged against them according to law, and remaining delinquent for one year, are contained and described in the following list: (here insert the list with the names of the owners of the respective tracts of land as designated on the delinquent vacant land tax list. If, prior to seven days before the publication of the list, a

delinquent tax contract has been entered into under section 8538
323.31 of the Revised Code, the owner's name may be stricken 8539
from the list or designated by an asterisk shown in the margin 8540
next to the owner's name.) 8541

Notice is hereby given that these delinquent vacant lands 8542
will be certified for foreclosure or foreclosure and forfeiture 8543
by the county auditor pursuant to law unless the whole of the 8544
delinquent taxes, assessments, interest, and penalties are paid 8545
within twenty-eight days after the final publication of this 8546
notice. The names of persons who have entered into a written 8547
delinquent tax contract with the county treasurer to discharge 8548
the delinquency are designated by an asterisk or have been 8549
stricken from the list." 8550

Sec. 5721.191. (A) Subject to division (B) of this 8551
section, the form for the advertisement of a sale conducted 8552
pursuant to section 5721.19 of the Revised Code shall be as 8553
follows: 8554

"Notice of sale under judgment of foreclosure of liens 8555

for delinquent land taxes 8556

In the _____ court of _____, Ohio 8557

case no. 8558

in the matter of foreclosure of liens for 8559

delinquent land taxes 8560

county treasurer of _____, Ohio 8561

Plaintiff, 8562

vs. 8563

parcels of land encumbered with delinquent 8564

tax liens, 8565

Defendants. 8566

8567

Whereas, judgment has been rendered against certain 8568
parcels of real property for taxes, assessments, charges, 8569
penalties, interest, and costs as follows: 8570

(Here set out, for each parcel, the respective permanent 8571
parcel number, full street address, description of the parcel, 8572
name and address of the last known owners of the parcel as shown 8573
on the general tax list, and total amount of the judgment) and; 8574

Whereas, such judgment orders such real property to be 8575
sold or otherwise disposed of according to law by the 8576
undersigned to satisfy the total amount of such judgment; 8577

Now, therefore, public notice is hereby given that I, 8578
_____ (officer) of _____, 8579
Ohio, will either dispose of such property according to law or 8580
sell such real property at public auction, for cash, to the 8581
highest bidder of an amount that equals at least (insert here, 8582
as in the court's order, the fair market value of the parcel as 8583
determined by the county auditor, or the total amount of the 8584
judgment, including all taxes, assessments, charges, penalties, 8585
and interest payable subsequent to the delivery to the 8586
prosecuting attorney of the delinquent land tax certificate or 8587
master list of delinquent tracts and prior to the transfer of 8588
the deed of the property to the purchaser following confirmation 8589
of sale), between the hours of _____ a.m. and _____ p.m., 8590
at (address and location) in _____, Ohio, on 8591
_____, the _____ day of _____, ____ If any 8592
parcel does not receive a sufficient bid or is not otherwise 8593

disposed of according to law, it may be offered for sale, under 8594
the same terms and conditions of the first sale and at the same 8595
time of day and at the same place, on _____, the 8596
_____ day of _____, __, for an amount that 8597
equals at least (insert here, as in the court's order, the fair 8598
market value of the parcel as determined by the county auditor, 8599
or the total amount of the judgment, including all taxes 8600
assessments, charges, penalties, and interest payable subsequent 8601
to the delivery to the prosecuting attorney of the delinquent 8602
land tax certificate or master list of delinquent tracts and 8603
prior to the transfer of the deed of the property to the 8604
purchaser following confirmation of sale)." 8605

(B) If the title search required by division (B) of 8606
section 5721.18 of the Revised Code that relates to a parcel 8607
subject to an in rem action under that division, or if the title 8608
search that relates to a parcel subject to an in personam action 8609
under division (A) of section 5721.18 of the Revised Code, 8610
indicates that a federal tax lien exists relative to the parcel, 8611
then the form of the advertisement of sale as described in 8612
division (A) of this section additionally shall include the 8613
following statement in boldface type: 8614

"PUBLIC NOTICE IS HEREBY GIVEN THAT (INSERT HERE THE 8615
DESCRIPTION OF EACH RELEVANT PARCEL) TO BE SOLD AT PUBLIC 8616
AUCTION IS SUBJECT TO A FEDERAL TAX LIEN THAT MAY NOT BE 8617
EXTINGUISHED BY THE SALE. 8618

_____ 8619

(officer)" 8620

(C) If the proceedings for foreclosure were instituted 8621
under division (C) of section 5721.18 of the Revised Code, then 8622

the form of the advertisement of sale as described in division 8623
(A) of this section additionally shall include the following 8624
statement in boldface type: 8625

"Public notice is hereby given that (insert here the 8626
description of each relevant parcel) to be sold at public 8627
auction will be sold subject to all liens and encumbrances with 8628
respect to the parcel, other than the liens for land taxes, 8629
assessments, charges, penalties, and interest for which the lien 8630
was foreclosed and in satisfaction of which the property is 8631
sold. 8632

(officer)" 8634

Sec. 5721.39. (A) In its judgment of foreclosure rendered 8635
in actions filed pursuant to section 5721.37 of the Revised 8636
Code, the court or board of revision shall enter a finding that 8637
includes all of the following with respect to the certificate 8638
parcel: 8639

(1) The amount of the sum of the certificate redemption 8640
prices for all the tax certificates sold against the parcel; 8641

(2) Interest on the certificate purchase prices of all 8642
certificates at the rate of eighteen per cent per year for the 8643
period beginning on the day on which the payment was submitted 8644
by the certificate holder under division (B) of section 5721.37 8645
of the Revised Code; 8646

(3) The amount paid under division (B) (2) of section 8647
5721.37 of the Revised Code, plus interest at the rate of 8648
eighteen per cent per year for the period beginning on the day 8649
the certificate holder filed a request for foreclosure or a 8650
notice of intent to foreclose under division (A) of that 8651

section; 8652

(4) Any delinquent taxes on the parcel that are not 8653
covered by a payment under division (B) (2) of section 5721.37 of 8654
the Revised Code; 8655

(5) Fees and costs incurred in the foreclosure proceeding 8656
instituted against the parcel, including, without limitation, 8657
the fees and costs of the prosecuting attorney represented by 8658
the fee paid under division (B) (3) of section 5721.37 of the 8659
Revised Code, plus interest as provided in division (D) (2) (d) of 8660
this section, or the fees and costs of the private attorney 8661
representing the certificate holder, and charges paid or 8662
incurred in procuring title searches and abstracting services 8663
relative to the subject premises. 8664

(B) The court or board of revision may order the 8665
certificate parcel to be sold or otherwise transferred according 8666
to law, without appraisal and as set forth in the prayer of the 8667
complaint, for not less than the amount of its finding, or, in 8668
the event that the true value of the certificate parcel as 8669
determined by the county auditor is less than the certificate 8670
redemption price, the court or board of revision may, as prayed 8671
for in the complaint, issue a decree transferring fee simple 8672
title free and clear of all subordinate liens to the certificate 8673
holder or as otherwise provided in sections 323.65 to 323.79 of 8674
the Revised Code. A decree of the court or board of revision 8675
transferring fee simple title to the certificate holder is 8676
forever a bar to all rights of redemption with respect to the 8677
certificate parcel. 8678

(C) (1) The certificate holder may file a motion with the 8679
court for an order authorizing a specified private selling 8680
officer, as defined in section 2329.01 of the Revised Code, to 8681

sell the parcel at a public auction. If the court authorizes a private selling officer to sell the parcel, then upon the filing of a praecipe for order of sale with the clerk of the court, the clerk of the court shall immediately issue an order of sale to the private selling officer authorized by the court.

(2) The officer to whom the order of sale is directed may conduct the public auction of the parcel at a physical location in the county in which the parcel is located or online. If the public auction occurs online, the auction shall be open for bidding for seven days. If the parcel is not sold during this initial seven-day period, a second online auction shall be held not earlier than three days or later than thirty days after the end of the first auction. The second online auction shall be open for bidding for seven days.

(3) A private selling officer who conducts an auction of the parcel under this section may do any of the following:

(a) Market the parcels for sale and 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 assist the private selling officer in performing administrative services;

(b) Execute to the purchaser, or to the purchaser's legal representatives, a deed of conveyance of the parcel sold in 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 8711
section, a purchaser appoints the private selling officer who 8712
conducts the sale as agent of the purchaser for the sole purpose 8713
of accepting delivery of the deed. 8714

(5) The private selling officer who conducts the sale 8715
shall hire a title insurance agent licensed under Chapter 3953. 8716
of the Revised Code or title insurance company authorized to do 8717
business under that chapter to perform title, escrow, and 8718
closing services related to the sale of the parcel. 8719

(6) Except as otherwise provided in sections 323.65 to 8720
323.79 of the Revised Code, and the alternative redemption 8721
period thereunder, each certificate parcel shall be advertised 8722
and sold by the officer to whom the order of sale is directed in 8723
the manner provided by law for the sale of real property on 8724
execution. The advertisement for sale of certificate parcels 8725
shall be published once a week for three consecutive weeks and 8726
shall include the date on which a second sale will be conducted 8727
if no bid is accepted at the first sale. Any number of parcels 8728
may be included in one advertisement. 8729

Except as otherwise provided in sections 323.65 to 323.79 8730
of the Revised Code, whenever the officer charged to conduct the 8731
sale offers a certificate parcel for sale at a physical location 8732
and not online and no bids are made equal to at least the amount 8733
of the finding of the court or board of revision, the officer 8734
shall adjourn the sale of the parcel to the second date that was 8735
specified in the advertisement of sale. The second sale shall be 8736
held at the same place and commence at the same time as set 8737
forth in the advertisement of sale. The officer shall offer any 8738
parcel not sold at the first sale. Upon the conclusion of any 8739
sale, or if any parcel remains unsold after being offered at two 8740

sales, the officer conducting the sale shall report the results 8741
to the court or board of revision. 8742

(D) Upon the confirmation of a sale, the proceeds of the 8743
sale shall be applied as follows: 8744

(1) The fees and costs incurred in the proceeding filed 8745
against the parcel pursuant to section 5721.37 of the Revised 8746
Code shall be paid first, including attorney's fees of the 8747
certificate holder's attorney payable under division (F) of that 8748
section, private selling officer's fees and marketing costs, 8749
title agent's or title company's fees, or the county 8750
prosecutor's costs covered by the fee paid by the certificate 8751
holder under division (B) (3) of that section. 8752

(2) Following the payment required by division (D) (1) of 8753
this section, the certificate holder that filed the notice of 8754
intent to foreclose or request for foreclosure with the county 8755
treasurer shall be paid the sum of the following amounts: 8756

(a) The sum of the amount found due for the certificate 8757
redemption prices of all the tax certificates that are sold 8758
against the parcel; 8759

(b) Any premium paid by the certificate holder at the time 8760
of purchase; 8761

(c) Interest on the amounts paid by the certificate holder 8762
under division (B) (1) of section 5721.37 of the Revised Code at 8763
the rate of eighteen per cent per year beginning on the day on 8764
which the payment was submitted by the certificate holder to the 8765
county treasurer and ending on the day immediately preceding the 8766
day on which the proceeds of the foreclosure sale are paid to 8767
the certificate holder; 8768

(d) Interest on the amounts paid by the certificate holder 8769

under divisions (B) (2) and (3) of section 5721.37 of the Revised Code at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder under divisions (B) (2) and (3) of that section and ending on the day immediately preceding the day on which the proceeds of the foreclosure sale are paid to the certificate holder pursuant to this section, except that such interest shall not accrue for more than ~~three six~~ years if the certificate was sold under ~~section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, or more than six years if the certificate was sold under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code,~~ after the day the amounts were paid by the certificate holder under divisions (B) (2) and (3) of section 5721.37 of the Revised Code;

(e) The amounts paid by the certificate holder under divisions (B) (1), (2), and (3) of section 5721.37 of the Revised Code.

(3) Following the payment required by division (D) (2) of this section, any amount due for taxes, installments of assessments, charges, penalties, and interest not covered by the tax certificate holder's payment under division (B) (2) of section 5721.37 of the Revised Code shall be paid, including all taxes, installments of assessments, charges, penalties, and interest payable subsequent to the entry of the finding and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale. If the proceeds available for distribution pursuant to this division are insufficient to pay the entire amount of those taxes, installments of assessments,

charges, penalties, and interest, the proceeds shall be paid to 8801
each claimant in proportion to the amount of those taxes, 8802
installments of assessments, charges, penalties, and interest 8803
that each is due, and those taxes, installments of assessments, 8804
charges, penalties, and interest are deemed satisfied and shall 8805
be removed from the tax list and duplicate. 8806

(4) Any residue of money from proceeds of the sale shall 8807
be disposed of as prescribed by section 5721.20 of the Revised 8808
Code. 8809

(E) Unless the parcel previously was redeemed pursuant to 8810
section 5721.25 or 5721.38 of the Revised Code, upon the filing 8811
of the entry of confirmation of sale, or an order to transfer 8812
the parcel under sections 323.65 to 323.79 of the Revised Code, 8813
the title to the parcel is incontestable in the purchaser and is 8814
free and clear of all liens and encumbrances, except a federal 8815
tax lien, notice of which lien is properly filed in accordance 8816
with section 317.09 of the Revised Code prior to the date that a 8817
foreclosure proceeding is instituted pursuant to section 5721.37 8818
of the Revised Code, and which lien was foreclosed in accordance 8819
with 28 U.S.C.A. 2410(c), and except for the easements and 8820
covenants of record running with the land or lots that were 8821
created prior to the time the taxes or installments of 8822
assessments, for the nonpayment of which a tax certificate was 8823
issued and the parcel sold at foreclosure, became due and 8824
payable. 8825

The title shall not be invalid because of any 8826
irregularity, informality, or omission of any proceedings under 8827
this chapter or in any processes of taxation, if such 8828
irregularity, informality, or omission does not abrogate the 8829
provision for notice to holders of title, lien, or mortgage to, 8830

or other interests in, such foreclosed parcels, as prescribed in 8831
this chapter. 8832

Sec. 5725.98. (A) To provide a uniform procedure for 8833
calculating the amount of tax imposed by section 5725.18 of the 8834
Revised Code that is due under this chapter, a taxpayer shall 8835
claim any credits and offsets against tax liability to which it 8836
is entitled in the following order: 8837

~~(1)~~—The credit for an insurance company or insurance 8838
company group under section 5729.031 of the Revised Code; 8839

~~(2)~~—The credit for eligible employee training costs under 8840
section 5725.31 of the Revised Code; 8841

~~(3)~~—The credit for purchasers of qualified low-income 8842
community investments under section 5725.33 of the Revised Code; 8843

~~(4)~~—The nonrefundable job retention credit under division 8844
(B) of section 122.171 of the Revised Code; 8845

~~(5)~~—The nonrefundable credit for investments in rural 8846
business growth funds under section 122.152 of the Revised Code; 8847

~~(6)~~—The offset of assessments by the Ohio life and health 8848
insurance guaranty association permitted by section 3956.20 of 8849
the Revised Code; 8850

~~(7)~~—The refundable credit for rehabilitating a historic 8851
building under section 5725.34 of the Revised Code; 8852

~~(8)~~—The refundable credit for Ohio job retention under 8853
former division (B) (2) or (3) of section 122.171 of the Revised 8854
Code as those divisions existed before September 29, 2015, the 8855
effective date of the amendment of this section by H.B. 64 of 8856
the 131st general assembly; 8857

~~(9)~~—The refundable credit for Ohio job creation under 8858
section 5725.32 of the Revised Code; 8859

~~(10)~~—The refundable credit under section 5725.19 of the 8860
Revised Code for losses on loans made under the Ohio venture 8861
capital program under sections 150.01 to 150.10 of the Revised 8862
Code. 8863

(B) For any credit except the refundable credits 8864
enumerated in this section, the amount of the credit for a 8865
taxable year shall not exceed the tax due after allowing for any 8866
other credit that precedes it in the order required under this 8867
section. Any excess amount of a particular credit may be carried 8868
forward if authorized under the section creating that credit. 8869
Nothing in this chapter shall be construed to allow a taxpayer 8870
to claim, directly or indirectly, a credit more than once for a 8871
taxable year. 8872

Sec. 5726.50. (A) A taxpayer may claim a refundable tax 8873
credit against the tax imposed under this chapter for each 8874
person included in the annual report of the taxpayer that is 8875
granted a credit by the tax credit authority under section 8876
122.17 or former division (B) (2) or (3) of section 122.171 of 8877
the Revised Code as those divisions existed before ~~the effective~~ 8878
~~date of the amendment of this section by H.B. 64 of the 131st~~ 8879
~~general assembly September 29, 2015.~~ Such a credit shall not be 8880
claimed for any tax year following the calendar year in which a 8881
relocation of employment positions occurs in violation of an 8882
agreement entered into under section 122.17 or 122.171 of the 8883
Revised Code. For the purpose of making tax payments under this 8884
chapter, taxes equal to the amount of the refundable credit 8885
shall be considered to be paid on the first day of the tax year. 8886

(B) A taxpayer may claim a nonrefundable tax credit 8887

against the tax imposed under this chapter for each person 8888
included in the annual report of the taxpayer that is granted a 8889
nonrefundable credit by the tax credit authority under division 8890
(B) of section 122.171 of the Revised Code. A taxpayer may claim 8891
against the tax imposed by this chapter any unused portion of 8892
the credits authorized under division (B) of section 5733.0610 8893
of the Revised Code. 8894

(C) The credits authorized in divisions (A) and (B) of 8895
this section shall be claimed in the order required under 8896
section 5726.98 of the Revised Code. If the amount of a credit 8897
authorized in division (A) of this section exceeds the tax 8898
otherwise due under section 5726.02 of the Revised Code after 8899
deducting all other credits preceding the credit in the order 8900
prescribed in section 5726.98 of the Revised Code, the excess 8901
shall be refunded to the taxpayer. 8902

Sec. 5726.98. (A) To provide a uniform procedure for 8903
calculating the amount of tax due under section 5726.02 of the 8904
Revised Code, a taxpayer shall claim any credits to which the 8905
taxpayer is entitled under this chapter in the following order: 8906

~~(1)~~—The nonrefundable job retention credit under division 8907
(B) of section 5726.50 of the Revised Code; 8908

~~(2)~~—The nonrefundable credit for purchases of qualified 8909
low-income community investments under section 5726.54 of the 8910
Revised Code; 8911

~~(3)~~—The nonrefundable credit for qualified research 8912
expenses under section 5726.56 of the Revised Code; 8913

~~(4)~~—The nonrefundable credit for qualifying dealer in 8914
intangibles taxes under section 5726.57 of the Revised Code; 8915

~~(5)~~—The refundable credit for rehabilitating an historic 8916

building under section 5726.52 of the Revised Code; 8917

~~(6)~~—The refundable job retention or job creation credit 8918
under division (A) of section 5726.50 of the Revised Code; 8919

~~(7)~~—The refundable credit under section 5726.53 of the 8920
Revised Code for losses on loans made under the Ohio venture 8921
capital program under sections 150.01 to 150.10 of the Revised 8922
Code; 8923

~~(8)~~—The refundable motion picture and Broadway theatrical 8924
production credit under section 5726.55 of the Revised Code. 8925

(B) For any credit except the refundable credits 8926
enumerated in this section, the amount of the credit for a 8927
taxable year shall not exceed the tax due after allowing for any 8928
other credit that precedes it in the order required under this 8929
section. Any excess amount of a particular credit may be carried 8930
forward if authorized under the section creating that credit. 8931
Nothing in this chapter shall be construed to allow a taxpayer 8932
to claim, directly or indirectly, a credit more than once for a 8933
taxable year. 8934

Sec. 5727.02. As used in this chapter, "public utility," 8935
"electric company," "natural gas company," "pipe-line company," 8936
"water-works company," "water transportation company," or 8937
"heating company" does not include any of the following: 8938

(A) (1) Except as provided in division (A) (2) of this 8939
section, any person that is engaged in some other primary 8940
business to which the supplying of electricity, heat, natural 8941
gas, water, water transportation, steam, or air to others is 8942
incidental. 8943

(2) For tax year 2009 and each tax year thereafter, a 8944
person that is engaged in some other primary business to which 8945

the supplying of electricity to others is incidental shall be 8946
treated as an "electric company" and a "public utility" for 8947
purposes of this chapter solely to the extent required by 8948
section 5727.031 of the Revised Code. 8949

(3) For purposes of division (A) of this section and 8950
section 5727.031 of the Revised Code: 8951

(a) "Supplying of electricity" means generating, 8952
transmitting, or distributing electricity. 8953

(b) A person that leases to others energy facilities with 8954
an aggregate nameplate capacity in this state of two hundred 8955
fifty kilowatts or less per lease is not supplying electricity 8956
to others. 8957

(c) A person that owns, or leases from another person, 8958
energy facilities with an aggregate nameplate capacity in this 8959
state of two hundred fifty kilowatts or less is not supplying 8960
electricity to others, regardless of whether the owner or lessee 8961
engages in net metering as defined in section 4928.01 of the 8962
Revised Code. 8963

(d) A political subdivision of this state that owns an 8964
energy facility is not supplying electricity to others 8965
regardless of the nameplate capacity of the facility if the 8966
primary purpose of the facility is to supply electricity for the 8967
political subdivision's own use. As used in this division, 8968
"political subdivision" means a county, township, municipal 8969
corporation, or any other body corporate and politic that is 8970
responsible for government activities in a geographic area 8971
smaller than that of the state. 8972

(B) Any person that supplies electricity, natural gas, 8973
water, water transportation, steam, or air to its tenants, 8974

whether for a separate charge or otherwise; 8975

(C) Any person whose primary business in this state 8976
consists of producing, refining, or marketing petroleum or its 8977
products. 8978

(D) Any person whose primary business in this state 8979
consists of producing or gathering natural gas rather than 8980
supplying or distributing natural gas to consumers. 8981

Sec. 5727.11. (A) Except as otherwise provided in this 8982
section, the true value of all taxable property, except property 8983
of a railroad company, required by section 5727.06 of the 8984
Revised Code to be assessed by the tax commissioner shall be 8985
determined by a method of valuation using cost as capitalized on 8986
the public utility's books and records less composite annual 8987
allowances as prescribed by the commissioner. If the 8988
commissioner finds that application of this method will not 8989
result in the determination of true value of the public 8990
utility's taxable property, the commissioner may use another 8991
method of valuation. 8992

(B) (1) Except as provided in division (B) (2) of this 8993
section, the true value of current gas stored underground is the 8994
cost of that gas shown on the books and records of the public 8995
utility on the thirty-first day of December of the preceding 8996
year. 8997

(2) For tax year 2001 and thereafter, the true value of 8998
current gas stored underground is the quotient obtained by 8999
dividing (a) the average value of the current gas stored 9000
underground, which shall be determined by adding the value of 9001
the gas on hand at the end of each calendar month in the 9002
calendar year preceding the tax year, or, if applicable, the 9003

last day of business of each month for a partial month, divided 9004
by (b) the total number of months the natural gas company was in 9005
business during the calendar year prior to the beginning of the 9006
tax year. ~~with~~ With the approval of the tax commissioner, a 9007
natural gas company may use a date other than the end of a 9008
calendar month to value its current gas stored underground. 9009

(C) The true value of noncurrent gas stored underground is 9010
thirty-five per cent of the cost of that gas shown on the books 9011
and records of the public utility on the thirty-first day of 9012
December of the preceding year. 9013

(D) (1) Except as provided in division (D) (2) of this 9014
section, the true value of the production equipment of an 9015
electric company and the true value of all taxable property of a 9016
rural electric company is the equipment's or property's cost as 9017
capitalized on the company's books and records less fifty per 9018
cent of that cost as an allowance for depreciation and 9019
obsolescence. 9020

(2) The true value of the production equipment or energy 9021
conversion equipment of an electric company, rural electric 9022
company, or energy company purchased, transferred, or placed 9023
into service after October 5, 1999, is the purchase price of the 9024
equipment as capitalized on the company's books and records less 9025
composite annual allowances as prescribed by the tax 9026
commissioner. 9027

(E) The true value of taxable property, except property of 9028
a railroad company, required by section 5727.06 of the Revised 9029
Code to be assessed by the tax commissioner shall not include 9030
the allowance for funds used during construction or interest 9031
during construction that has been capitalized on the public 9032
utility's books and records as part of the total cost of the 9033

taxable property. This division shall not apply to the taxable 9034
property of an electric company or a rural electric company, 9035
excluding transmission and distribution property, first placed 9036
into service after December 31, 2000, or to the taxable property 9037
a person purchases, which includes transfers, if that property 9038
was used in business by the seller prior to the purchase. 9039

(F) The true value of watercraft owned or operated by a 9040
water transportation company shall be determined by multiplying 9041
the true value of the watercraft as determined under division 9042
(A) of this section by a fraction, the numerator of which is the 9043
number of revenue-earning miles traveled by the watercraft in 9044
the waters of this state and the denominator of which is the 9045
number of revenue-earning miles traveled by the watercraft in 9046
all waters. 9047

(G) The cost of property subject to a sale and leaseback 9048
transaction is the cost of the property as capitalized on the 9049
books and records of the public utility owning the property 9050
immediately prior to the sale and leaseback transaction. 9051

(H) The cost as capitalized on the books and records of a 9052
public utility includes amounts capitalized that represent 9053
regulatory assets, if such amounts previously were included on 9054
the company's books and records as capitalized costs of taxable 9055
personal property. 9056

(I) Any change in the composite annual allowances as 9057
prescribed by the commissioner on a prospective basis shall not 9058
be admissible in any judicial or administrative action or 9059
proceeding as evidence of value with regard to prior years' 9060
taxes. Information about the business, property, or transactions 9061
of any taxpayer obtained by the commissioner for the purpose of 9062
adopting or modifying the composite annual allowances shall not 9063

be subject to discovery or disclosure. 9064

Sec. 5727.23. On or before the first Monday in October, 9065
annually, the tax commissioner shall assess the taxable property 9066
of each public utility and interexchange telecommunications 9067
company, and for tax year 2009 and thereafter of each public 9068
utility property lessor. If the taxpayer failed to file its 9069
annual report required by section 5727.08 of the Revised Code at 9070
least sixty days prior to the first Monday of October, the 9071
commissioner may make the assessment under this section within 9072
sixty days after the taxpayer files the report, but this does 9073
not preclude the commissioner from making an assessment without 9074
receiving the report. 9075

The action of the tax commissioner shall be evidenced by a 9076
preliminary assessment that reflects the taxable value 9077
apportioned to each county and each taxing district in the 9078
county. The commissioner may amend the preliminary assessment as 9079
provided in this section. Each preliminary assessment and 9080
amended preliminary assessment shall be certified to the public 9081
utility, interexchange telecommunications company, or public 9082
utility property lessor, and to~~r~~ the auditor of each county to 9083
which taxable value has been apportioned. 9084

The county auditor shall place the apportioned taxable 9085
value on the general tax list and duplicate of real and public 9086
utility property, and taxes shall be levied and collected 9087
thereon at the same rates and in the same manner as taxes are 9088
levied and collected on real property in the taxing district in 9089
question. 9090

Unless a petition for reassessment of an assessment has 9091
been properly filed pursuant to section 5727.47 of the Revised 9092
Code, each preliminary assessment and, if amended, each 9093

preliminary assessment as last amended shall become final ninety 9094
days after certification of the preliminary assessment or thirty 9095
days after certification of the amended preliminary assessment, 9096
whichever is later. If a petition for reassessment is properly 9097
filed, the assessment shall become final when the tax 9098
commissioner issues a final determination. 9099

Neither the certification of any preliminary or amended 9100
assessment nor the expiration of the period of time that makes 9101
any assessment final constitutes a final determination, 9102
assessment, reassessment, valuation, finding, computation, or 9103
order of the commissioner that is appealable under section 9104
5717.02 of the Revised Code. 9105

Sec. 5727.32. (A) For the purpose of the tax imposed by 9106
section 5727.30 of the Revised Code, the statement required by 9107
section 5727.31 of the Revised Code shall contain: 9108

(1) The name of the company; 9109

(2) The nature of the company, whether a person, 9110
association, or corporation, and under the laws of what state or 9111
country organized; 9112

(3) The location of its principal office; 9113

(4) The name and post-office address of the president, 9114
secretary, auditor, treasurer, and superintendent or general 9115
manager; 9116

(5) The name and post-office address of the chief officer 9117
or managing agent of the company in this state; 9118

(6) The amount of the excise taxes paid or to be paid with 9119
the reports made during the current calendar year as provided by 9120
section 5727.31 of the Revised Code; 9121

(7) In the case of telegraph companies:	9122
(a) The gross receipts from all sources, whether messages,	9123
telephone tolls, rentals, or otherwise, for business done within	9124
this state, including all sums earned or charged, whether	9125
actually received or not, for the year ending on the thirtieth	9126
day of June, and the company's proportion of gross receipts for	9127
business done by it within this state in connection with other	9128
companies, firms, corporations, persons, or associations, but	9129
excluding all of the following:	9130
(i) All of the receipts derived wholly from interstate	9131
business or business done for or with the federal government;	9132
(ii) The receipts of amounts billed on behalf of other	9133
entities.	9134
(b) The total gross receipts for such period from business	9135
done within this state.	9136
(8) In the case of all public utilities subject to the tax	9137
imposed by section 5727.30 of the Revised Code, except telegraph	9138
companies:	9139
(a) The gross receipts of the company, actually received,	9140
from all sources for business done within this state for the	9141
year next preceding the first day of May, including the	9142
company's proportion of gross receipts for business done by it	9143
within this state in connection with other companies, firms,	9144
corporations, persons, or associations, but excluding both of	9145
the following:	9146
(i) Receipts from interstate business or business done for	9147
the federal government;	9148
(ii) Receipts from sales to another public utility for	9149

resale, provided such other public utility is subject to the tax 9150
levied by section 5727.24 or 5727.30 of the Revised Code; 9151

(iii) Receipts of a combined company derived from 9152
operating as a natural gas company that is subject to the tax 9153
imposed by section 5727.24 of the Revised Code. 9154

(b) The total gross receipts of the company, for the year 9155
next preceding the first day of May, in this state from business 9156
done within the state. 9157

(B) The reports required by section 5727.31 of the Revised 9158
Code shall contain: 9159

(1) The name and principal mailing address of the company; 9160

(2) The total amount of the gross receipts excise taxes 9161
charged or levied as based upon its last preceding annual 9162
statement filed prior to the first day of January of the year in 9163
which such report is filed; 9164

(3) The amount of the excise taxes due with the report as 9165
provided by section 5727.31 of the Revised Code. 9166

Sec. 5727.33. (A) For the purpose of computing the excise 9167
tax imposed by section 5727.24 or 5727.30 of the Revised Code, 9168
the entire gross receipts actually received from all sources for 9169
business done within this state are taxable gross receipts, 9170
excluding the receipts described in divisions (B), (C), and (D) 9171
of this section. The gross receipts for the tax year of each 9172
telegraph company shall be computed for the period of the first 9173
day of July prior to the tax year to the thirtieth day of June 9174
of the tax year. The gross receipts of each natural gas company, 9175
including a combined company's taxable gross receipts attributed 9176
to a natural gas company activity, shall be computed in the 9177
manner required by section 5727.25 of the Revised Code. The 9178

gross receipts for the tax year of any other public utility 9179
subject to section 5727.30 of the Revised Code shall be computed 9180
for the period of the first day of May prior to the tax year to 9181
the thirtieth day of April of the tax year. 9182

(B) In ascertaining and determining the gross receipts of 9183
each public utility subject to this section, the following gross 9184
receipts are excluded: 9185

(1) All receipts derived wholly from interstate business; 9186

(2) All receipts derived wholly from business done for or 9187
with the federal government; 9188

(3) All receipts from the sale of merchandise; 9189

(4) All receipts from sales to other public utilities, 9190
except railroad and telegraph companies, for resale, provided 9191
the other public utility is subject to the tax levied by section 9192
5727.24 or 5727.30 of the Revised Code. 9193

(C) In ascertaining and determining the gross receipts of 9194
a natural gas company, receipts billed on behalf of other 9195
entities are excluded. The tax imposed by section ~~5729.811~~ 9196
5727.811 of the Revised Code, along with transportation and 9197
billing and collection fees charged to other entities, shall be 9198
included in the gross receipts of a natural gas company. 9199

(D) In ascertaining and determining the gross receipts of 9200
a combined company subject to the tax imposed by section 5727.30 9201
of the Revised Code, all receipts derived from operating as a 9202
natural gas company that are subject to the tax imposed by 9203
section 5727.24 of the Revised Code are excluded. 9204

(E) Except as provided in division (F) of this section, 9205
the amount ascertained by the commissioner under this section, 9206

less a deduction of twenty-five thousand dollars, shall be the 9207
taxable gross receipts of such companies for business done 9208
within this state for that year. 9209

(F) The amount ascertained under this section, less the 9210
following deduction, shall be the taxable gross receipts of a 9211
natural gas company or combined company subject to the tax 9212
imposed by section 5727.24 of the Revised Code for business done 9213
within this state: 9214

(1) For a natural gas company that files quarterly returns 9215
of the tax imposed by section 5727.24 of the Revised Code, six 9216
thousand two hundred fifty dollars for each quarterly return; 9217

(2) For a natural gas company that files an annual return 9218
of the tax imposed by section 5727.24 of the Revised Code, 9219
twenty-five thousand dollars for each annual return; 9220

(3) For a combined company, twenty-five thousand dollars 9221
on the annual statement filed under section 5727.31 of the 9222
Revised Code. A combined company shall not be entitled to a 9223
deduction in computing gross receipts subject to the tax imposed 9224
by section 5727.24 of the Revised Code. 9225

Sec. 5727.80. As used in sections 5727.80 to 5727.95 of 9226
the Revised Code: 9227

(A) "Electric distribution company" means either of the 9228
following: 9229

(1) A person who distributes electricity through a meter 9230
of an end user in this state or to an unmetered location in this 9231
state; 9232

(2) The end user of electricity in this state, if the end 9233
user obtains electricity that is not distributed or transmitted 9234

to the end user by an electric distribution company that is 9235
required to remit the tax imposed by section 5727.81 of the 9236
Revised Code. 9237

"Electric distribution company" does not include an end 9238
user of electricity in this state who self-generates electricity 9239
that is used directly by that end user on the same site that the 9240
electricity is generated or a person that donates all of the 9241
electricity the person generates to a political subdivision of 9242
the state. Division (A) (2) of this section shall not apply to a 9243
political subdivision in this state that is the end user of 9244
electricity that is donated to the political subdivision. 9245

(B) "Kilowatt hour" means one thousand watt hours of 9246
electricity. 9247

(C) For an electric distribution company, "meter of an end 9248
user in this state" means the last meter used to measure the 9249
kilowatt hours distributed by an electric distribution company 9250
to a location in this state, or the last meter located outside 9251
of this state that is used to measure the kilowatt hours 9252
consumed at a location in this state. 9253

(D) "Person" has the same meaning as in section 5701.01 of 9254
the Revised Code, but also includes a political subdivision of 9255
the state. 9256

(E) "Municipal electric utility" means a municipal 9257
corporation that owns or operates a system for the distribution 9258
of electricity. 9259

(F) "Qualified end user" means an end user of electricity 9260
that satisfies either of the following criteria: 9261

(1) The end user uses more than three million kilowatt 9262
hours of electricity at one manufacturing location in this state 9263

for a calendar day for use in a qualifying manufacturing process. 9264
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(2) The end user uses electricity at a manufacturing location in this state for use in a chlor-alkali manufacturing process but, if the end user uses electricity distributed by a municipal electric utility, the end user can only be a "qualified end user" upon obtaining the consent of the legislative authority of the municipal corporation that owns or operates the utility. 9266
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(G) "Qualified regeneration" means a process to convert electricity to a form of stored energy by means such as using electricity to compress air for storage or to pump water to an elevated storage reservoir, if such stored energy is subsequently used to generate electricity for sale to others primarily during periods when there is peak demand for electricity. 9273
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(H) "Qualified regeneration meter" means the last meter used to measure electricity used in a qualified regeneration process. 9280
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(I) "Qualifying manufacturing process" means an electrochemical manufacturing process or a chlor-alkali manufacturing process. 9283
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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. 9286
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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 9290
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section 5727.24 of the Revised Code and that distributes natural 9293
gas through a meter of an end user in this state or to an 9294
unmetered location in this state. 9295

(L) "MCF" means one thousand cubic feet. 9296

(M) For a natural gas distribution company, "meter of an 9297
end user in this state" means the last meter used to measure the 9298
MCF of natural gas distributed by a natural gas distribution 9299
company to a location in this state, or the last meter located 9300
outside of this state that is used to measure the natural gas 9301
consumed at a location in this state. 9302

(N) "Flex customer" means an industrial or a commercial 9303
facility that has consumed more than one billion cubic feet of 9304
natural gas a year at a single location during any of the 9305
previous five years, or an industrial or a commercial end user 9306
of natural gas that purchases natural gas distribution services 9307
from a natural gas distribution company at discounted rates or 9308
charges established in any of the following: 9309

(1) A special arrangement subject to review and regulation 9310
by the public utilities commission under section 4905.31 of the 9311
Revised Code; 9312

(2) A special arrangement with a natural gas distribution 9313
company pursuant to a municipal ordinance; 9314

(3) A variable rate schedule that permits rates to vary 9315
between defined amounts, provided that the schedule is on file 9316
with the public utilities commission. 9317

An end user that meets this definition on January 1, 2000, 9318
or thereafter is a "flex customer" for purposes of determining 9319
the rate of taxation under division (D) of section 5727.811 of 9320
the Revised Code. 9321

(O) "Electrochemical manufacturing process" means the performance of an electrochemical reaction in which electrons from direct current electricity remain a part of the product being manufactured. "Electrochemical manufacturing process" does not include a chlor-alkali manufacturing process.

(P) "Chlor-alkali manufacturing process" means a process that uses electricity to produce chlorine and other chemicals through the electrolysis of a salt solution.

Sec. 5727.83. (A) A natural gas distribution company, an electric distribution company, or a self-assessing purchaser shall remit each tax payment by electronic funds transfer as prescribed by divisions (B) and (C) of this section.

The tax commissioner shall notify each natural gas distribution company, electric distribution company, and self-assessing purchaser of the obligation to remit taxes by electronic funds transfer, shall maintain an updated list of those companies and purchasers, and shall timely certify to the treasurer of state the list and any additions thereto or deletions therefrom. Failure by the tax commissioner to notify a company or self-assessing purchaser subject to this section to remit taxes by electronic funds transfer does not relieve the company or self-assessing purchaser of its obligation to remit taxes in that manner.

(B) A natural gas distribution company, an electric distribution company, or a self-assessing purchaser required by this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by rules adopted by the treasurer of state under section 113.061 of the Revised Code, and on or before the dates specified under section 5727.82 of the Revised Code. The

payment of taxes by electronic funds transfer does not affect a 9352
company's or self-assessing purchaser's obligation to file a 9353
return as required under section 5727.82 of the Revised Code. 9354

(C) A natural gas distribution company, an electric 9355
distribution company, or a self-assessing purchaser required by 9356
this section to remit taxes by electronic funds transfer may 9357
apply to the treasurer of state in the manner prescribed by the 9358
treasurer of state to be excused from that requirement. The 9359
treasurer of state may excuse the company or self-assessing 9360
purchaser from remittance by electronic funds transfer for good 9361
cause shown for the period of time requested by the company or 9362
self-assessing purchaser or for a portion of that period. The 9363
treasurer of state shall notify the tax commissioner and the 9364
company or self-assessing purchaser of the treasurer of state's 9365
decision as soon as is practicable. 9366

(D) If a natural gas distribution company, an electric 9367
distribution company, or a self-assessing purchaser required by 9368
this section to remit taxes by electronic funds transfer remits 9369
those taxes by some means other than by electronic funds 9370
transfer as prescribed by this section and the rules adopted by 9371
the treasurer of state, and the treasurer of state determines 9372
that such failure was not due to reasonable cause or was due to 9373
willful neglect, the treasurer of state shall notify the tax 9374
commissioner of the failure to remit by electronic funds 9375
transfer and shall provide the commissioner with any information 9376
used in making that determination. The tax commissioner may 9377
collect an additional charge by assessment in the manner 9378
prescribed by section 5727.89 of the Revised Code. The 9379
additional charge shall equal five per cent of the amount of the 9380
taxes required to be paid by electronic funds transfer, but 9381
shall not exceed five thousand dollars. Any additional charge 9382

assessed under this section is in addition to any other penalty 9383
or charge imposed under this chapter, and shall be considered as 9384
revenue arising from the tax imposed under this chapter. The tax 9385
commissioner may abate all or a portion of such a charge and may 9386
adopt rules governing such abatements. 9387

No additional charge shall be assessed under this division 9388
against a natural gas distribution company, an electric 9389
distribution company, or a self-assessing purchaser that has 9390
been notified of its obligation to remit taxes under this 9391
section and that remits its first two tax payments after such 9392
notification by some means other than electronic funds transfer. 9393
The additional charge may be assessed upon the remittance of any 9394
subsequent tax payment that the company or purchaser remits by 9395
~~some~~ some means other than electronic funds transfer. 9396

Sec. 5727.84. No determinations, computations, 9397
certifications, or payments shall be made under this section 9398
after June 30, 2015. 9399

(A) As used in this section and sections 5727.85, and 9400
5727.86, ~~and 5727.87~~ of the Revised Code: 9401

(1) "School district" means a city, local, or exempted 9402
village school district. 9403

(2) "Joint vocational school district" means a joint 9404
vocational school district created under section 3311.16 of the 9405
Revised Code, and includes a cooperative education school 9406
district created under section 3311.52 or 3311.521 of the 9407
Revised Code and a county school financing district created 9408
under section 3311.50 of the Revised Code. 9409

(3) "Local taxing unit" means a subdivision or taxing 9410
unit, as defined in section 5705.01 of the Revised Code, a park 9411

district created under Chapter 1545. of the Revised Code, or a 9412
township park district established under section 511.23 of the 9413
Revised Code, but excludes school districts and joint vocational 9414
school districts. 9415

(4) "State education aid," for a school district, means 9416
the following: 9417

(a) For fiscal years prior to fiscal year 2010, the sum of 9418
state aid amounts computed for the district under former 9419
sections 3317.029, 3317.052, and 3317.053 of the Revised Code 9420
and the following provisions, as they existed for the applicable 9421
fiscal year: divisions (A), (C) (1), (C) (4), (D), (E), and (F) of 9422
section 3317.022; divisions (B), (C), and (D) of section 9423
3317.023; divisions (G), (L), and (N) of section 3317.024; and 9424
sections 3317.0216, 3317.0217, 3317.04, and 3317.05 of the 9425
Revised Code; and the adjustments required by: division (C) of 9426
section 3310.08; division (C) (2) of section 3310.41; division 9427
(C) of section 3314.08; division (D) (2) of section 3314.091; 9428
division (D) of former section 3314.13; divisions (E), (K), (L), 9429
(M), and (N) of section 3317.023; division (C) of section 9430
3317.20; and sections 3313.979 and 3313.981 of the Revised Code. 9431
However, when calculating state education aid for a school 9432
district for fiscal years 2008 and 2009, include the amount 9433
computed for the district under Section 269.20.80 of H.B. 119 of 9434
the 127th general assembly, as subsequently amended, instead of 9435
division (D) of section 3317.022 of the Revised Code; and 9436
include amounts calculated under Section 269.30.80 of H.B. 119 9437
of the 127th general assembly, as subsequently amended. 9438

(b) For fiscal years 2010 and 2011, the sum of the amounts 9439
computed for the district under former sections 3306.052, 9440
3306.12, 3306.13, 3306.19, 3306.191, 3306.192, 3317.052, and 9441

3317.053 of the Revised Code and the following provisions, as 9442
they existed for the applicable fiscal year: division (G) of 9443
section 3317.024; section 3317.05 of the Revised Code; and the 9444
adjustments required by division (C) of section 3310.08; 9445
division (C) (2) of section 3310.41; division (C) of section 9446
3314.08; division (D) (2) of section 3314.091; division (D) of 9447
former section 3314.13; divisions (E), (K), (L), (M), and (N) of 9448
section 3317.023; division (C) of section 3317.20; and sections 9449
3313.979, 3313.981, and 3326.33 of the Revised Code. 9450

(c) For fiscal years 2012 and 2013, the amount paid in 9451
accordance with the section of H.B. 153 of the 129th general 9452
assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL 9453
SCHOOL DISTRICTS" and the adjustments required by division (C) 9454
of section 3310.08; division (C) (2) of section 3310.41; section 9455
3310.55; division (C) of section 3314.08; division (D) (2) of 9456
section 3314.091; division (D) of former section 3314.13; 9457
divisions (B), (H), (I), (J), and (K) of section 3317.023; 9458
division (C) of section 3317.20; and sections 3313.979 and 9459
3313.981 of the Revised Code; 9460

(d) For fiscal year 2014 and each fiscal year thereafter, 9461
the sum of amounts computed for and paid to the district under 9462
section 3317.022 of the Revised Code; and the adjustments 9463
required by division (C) of section 3310.08, division (C) (2) of 9464
section 3310.41, section 3310.55, division (C) of section 9465
3314.08, division (D) (2) of section 3314.091, divisions (B), 9466
(H), (J), and (K) of section 3317.023, and sections 3313.978, 9467
3313.981, 3317.0212, 3317.0213, 3317.0214, and 3326.33 of the 9468
Revised Code. However, for fiscal years 2014 and 2015, the 9469
amount computed for the district under the section of this act 9470
entitled "TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE 9471
SCHOOL DISTRICTS" also shall be included. 9472

- (5) "State education aid," for a joint vocational school district, means the following: 9473
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- (a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended. 9475
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- (b) For fiscal years 2010 and 2011, the amount computed for the district in accordance with the section of H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS." 9483
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- (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." 9487
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- (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. 9491
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- (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. 9497
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- (7) "Recognized valuation" means the amount computed for a 9501

school district pursuant to section 3317.015 of the Revised Code. 9502
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(8) "Electric company tax value loss" means the amount determined under division (D) of this section. 9504
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(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section. 9506
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(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 9508
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(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 9511
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(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 9513
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(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies charged and payable pursuant to section 5705.194 of the Revised Code. 9515
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(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section. 9520
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(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor. 9522
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(16) "Total resources" and "total library resources" have the same meanings as in section 5751.20 of the Revised Code. 9525
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(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint 9527
9528

vocational school district in fiscal year 2011 for current 9529
expense levy losses pursuant to division (C) (2) of section 9530
5727.85 of the Revised Code. If a fixed-rate levy eligible for 9531
reimbursement is not charged and payable in any year after tax 9532
year 2010, "2011 current expense S.B. 3 allocation" used to 9533
compute payments to be made under division (C) (3) of section 9534
5727.85 of the Revised Code in the tax years following the last 9535
year the levy is charged and payable shall be reduced to the 9536
extent that those payments are attributable to the fixed-rate 9537
levy loss of that levy. 9538

(18) "2010 current expense S.B. 3 allocation" means the 9539
sum of payments received by a municipal corporation in calendar 9540
year 2010 for current expense levy losses pursuant to division 9541
(A) (1) of section 5727.86 of the Revised Code, excluding any 9542
such payments received for current expense levy losses 9543
attributable to a tax levied under section 5705.23 of the 9544
Revised Code. If a fixed-rate levy eligible for reimbursement is 9545
not charged and payable in any year after tax year 2010, "2010 9546
current expense S.B. 3 allocation" used to compute payments to 9547
be made under division (A) (1) (d) or (e) of section 5727.86 of 9548
the Revised Code in the tax years following the last year the 9549
levy is charged and payable shall be reduced to the extent that 9550
those payments are attributable to the fixed-rate levy loss of 9551
that levy. 9552

(19) "2010 S.B. 3 allocation" means the sum of payments 9553
received by a local taxing unit during calendar year 2010 9554
pursuant to division (A) (1) of section 5727.86 of the Revised 9555
Code, excluding any such payments received for fixed-rate levy 9556
losses attributable to a tax levied under section 5705.23 of the 9557
Revised Code. If a fixed-rate levy eligible for reimbursement is 9558
not charged and payable in any year after tax year 2010, "2010 9559

S.B. 3 allocation" used to compute payments to be made under 9560
division (A) (1) (d) or (e) of section 5727.86 of the Revised Code 9561
in the tax years following the last year the levy is charged and 9562
payable shall be reduced to the extent that those payments are 9563
attributable to the fixed-rate levy loss of that levy. 9564

(20) "Total S.B. 3 allocation" means, in the case of a 9565
school district or joint vocational school district, the sum of 9566
the payments received in fiscal year 2011 pursuant to divisions 9567
(C) (2) and (D) of section 5727.85 of the Revised Code. In the 9568
case of a local taxing unit, "total S.B. 3 allocation" means the 9569
sum of payments received by the unit in calendar year 2010 9570
pursuant to divisions (A) (1) and (4) of section 5727.86 of the 9571
Revised Code, excluding any such payments received for fixed- 9572
rate levy losses attributable to a tax levied under section 9573
5705.23 of the Revised Code. If a fixed-rate levy eligible for 9574
reimbursement is not charged and payable in any year after tax 9575
year 2010, "total S.B. 3 allocation" used to compute payments to 9576
be made under division (C) (3) of section 5727.85 or division (A) 9577
(1) (d) or (e) of section 5727.86 of the Revised Code in the tax 9578
years following the last year the levy is charged and payable 9579
shall be reduced to the extent that those payments are 9580
attributable to the fixed-rate levy loss of that levy as would 9581
be computed under division (C) (2) of section 5727.85 or division 9582
(A) (1) (b) of section 5727.86 of the Revised Code. 9583

(21) "2011 non-current expense S.B. 3 allocation" means 9584
the difference of a school district's or joint vocational school 9585
district's total S.B. 3 allocation minus the sum of the school 9586
district's 2011 current expense S.B. 3 allocation and the 9587
portion of the school district's total S.B. 3 allocation 9588
constituting reimbursement for debt levies pursuant to division 9589
(D) of section 5727.85 of the Revised Code. 9590

(22) "2010 non-current expense S.B. 3 allocation" means 9591
the difference of a municipal corporation's total S.B. 3 9592
allocation minus the sum of its 2010 current expense S.B. 3 9593
allocation and the portion of its total S.B. 3 allocation 9594
constituting reimbursement for debt levies pursuant to division 9595
(A) (4) of section 5727.86 of the Revised Code. 9596

(23) "S.B. 3 allocation for library purposes" means, in 9597
the case of a county, municipal corporation, school district, or 9598
township public library that receives the proceeds of a tax 9599
levied under section 5705.23 of the Revised Code, the sum of the 9600
payments received by the public library in calendar year 2010 9601
pursuant to section 5727.86 of the Revised Code for fixed-rate 9602
levy losses attributable to a tax levied under section 5705.23 9603
of the Revised Code. If a fixed-rate levy authorized under 9604
section 5705.23 of the Revised Code that is eligible for 9605
reimbursement is not charged and payable in any year after tax 9606
year 2010, "S.B. 3 allocation for library purposes" used to 9607
compute payments to be made under division (A) (1) (f) of section 9608
5727.86 of the Revised Code in the tax years following the last 9609
year the levy is charged and payable shall be reduced to the 9610
extent that those payments are attributable to the fixed-rate 9611
levy loss of that levy as would be computed under division (A) 9612
(1) (b) of section 5727.86 of the Revised Code. 9613

(24) "Threshold per cent" means, in the case of a school 9614
district or joint vocational school district, two per cent for 9615
fiscal year 2012 and four per cent for fiscal years 2013 and 9616
thereafter. In the case of a local taxing unit or public library 9617
that receives the proceeds of a tax levied under section 5705.23 9618
of the Revised Code, "threshold per cent" means two per cent for 9619
calendar year 2011, four per cent for calendar year 2012, and 9620
six per cent for calendar years 2013 and thereafter. 9621

(B) The kilowatt-hour tax receipts fund is hereby created 9622
in the state treasury and shall consist of money arising from 9623
the tax imposed by section 5727.81 of the Revised Code. All 9624
money in the kilowatt-hour tax receipts fund shall be credited 9625
as follows: 9626

	1	2	3	4
A	Fiscal Year	General Revenue Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
B	2001-2011	63.0%	25.4%	11.6%
C	2012-2015	88.0%	9.0%	3.0%

(C) The natural gas tax receipts fund is hereby created in 9628
the state treasury and shall consist of money arising from the 9629
tax imposed by section 5727.811 of the Revised Code. All money 9630
in the fund shall be credited as follows for fiscal years before 9631
fiscal year 2012: 9632

(1) Sixty-eight and seven-tenths per cent shall be 9633
credited to the school district property tax replacement fund 9634
for the purpose of making the payments described in section 9635
5727.85 of the Revised Code. 9636

(2) Thirty-one and three-tenths per cent shall be credited 9637
to the local government property tax replacement fund for the 9638
purpose of making the payments described in section 5727.86 of 9639
the Revised Code. 9640

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D) (1) to (4) of this section:

(1) The difference obtained by subtracting the amount described in division (D) (1) (b) from the amount described in division (D) (1) (a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D) (2) (b) from the amount described in division (D) (2) (a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D) (2) (a)

of this section for tax years 1996, 1997, and 1998, as reflected 9670
in the preliminary assessments, using an assessment rate of 9671
twenty-five per cent. 9672

(3) In the case of a taxing district having a nuclear 9673
power plant within its territory, any amount, resulting in an 9674
electric company tax value loss, obtained by subtracting the 9675
amount described in division (D) (1) of this section from the 9676
difference obtained by subtracting the amount described in 9677
division (D) (3) (b) of this section from the amount described in 9678
division (D) (3) (a) of this section. 9679

(a) The value of electric company tangible personal 9680
property as assessed by the tax commissioner for tax year 2000 9681
on a preliminary assessment, or an amended preliminary 9682
assessment if issued prior to March 1, 2001, and as apportioned 9683
to the taxing district for tax year 2000; 9684

(b) The value of electric company tangible personal 9685
property as assessed by the tax commissioner for tax year 2001 9686
on a preliminary assessment, or an amended preliminary 9687
assessment if issued prior to March 1, 2002, and as apportioned 9688
to the taxing district for tax year 2001. 9689

(4) In the case of a taxing district having a nuclear 9690
power plant within its territory, the difference obtained by 9691
subtracting the amount described in division (D) (4) (b) of this 9692
section from the amount described in division (D) (4) (a) of this 9693
section, provided that such difference is greater than ten per 9694
cent of the amount described in division (D) (4) (a) of this 9695
section. 9696

(a) The value of electric company tangible personal 9697
property as assessed by the tax commissioner for tax year 2005 9698

on a preliminary assessment, or an amended preliminary 9699
assessment if issued prior to March 1, 2006, and as apportioned 9700
to the taxing district for tax year 2005; 9701

(b) The value of electric company tangible personal 9702
property as assessed by the tax commissioner for tax year 2006 9703
on a preliminary assessment, or an amended preliminary 9704
assessment if issued prior to March 1, 2007, and as apportioned 9705
to the taxing district for tax year 2006. 9706

(E) Not later than January 1, 2002, the tax commissioner 9707
shall determine for each taxing district its natural gas company 9708
tax value loss, which is the sum of the amounts described in 9709
divisions (E) (1) and (2) of this section: 9710

(1) The difference obtained by subtracting the amount 9711
described in division (E) (1) (b) from the amount described in 9712
division (E) (1) (a) of this section. 9713

(a) The value of all natural gas company tangible personal 9714
property, other than property described in division (E) (2) of 9715
this section, as assessed by the tax commissioner for tax year 9716
1999 on a preliminary assessment, or an amended preliminary 9717
assessment if issued prior to March 1, 2000, and apportioned to 9718
the taxing district for tax year 1999; 9719

(b) The value of all natural gas company tangible personal 9720
property, other than property described in division (E) (2) of 9721
this section, as assessed by the tax commissioner for tax year 9722
1999 had the property been apportioned to the taxing district 9723
for tax year 2001, and assessed at the rates in effect for tax 9724
year 2001. 9725

(2) The difference in the value of current gas obtained by 9726
subtracting the amount described in division (E) (2) (b) from the 9727

amount described in division (E) (2) (a) of this section. 9728

(a) The three-year average assessed value of current gas 9729
as assessed by the tax commissioner for tax years 1997, 1998, 9730
and 1999 on a preliminary assessment, or an amended preliminary 9731
assessment if issued prior to March 1, 2001, and as apportioned 9732
in the taxing district for those respective years; 9733

(b) The three-year average assessed value from current gas 9734
under division (E) (2) (a) of this section for tax years 1997, 9735
1998, and 1999, as reflected in the preliminary assessment, 9736
using an assessment rate of twenty-five per cent. 9737

(F) The tax commissioner may request that natural gas 9738
companies, electric companies, and rural electric companies file 9739
a report to help determine the tax value loss under divisions 9740
(D) and (E) of this section. The report shall be filed within 9741
thirty days of the commissioner's request. A company that fails 9742
to file the report or does not timely file the report is subject 9743
to the penalty in section 5727.60 of the Revised Code. 9744

(G) Not later than January 1, 2002, the tax commissioner 9745
shall determine for each school district, joint vocational 9746
school district, and local taxing unit its fixed-rate levy loss, 9747
which is the sum of its electric company tax value loss 9748
multiplied by the tax rate in effect in tax year 1998 for fixed- 9749
rate levies and its natural gas company tax value loss 9750
multiplied by the tax rate in effect in tax year 1999 for fixed- 9751
rate levies. 9752

(H) Not later than January 1, 2002, the tax commissioner 9753
shall determine for each school district, joint vocational 9754
school district, and local taxing unit its fixed-sum levy loss, 9755
which is the amount obtained by subtracting the amount described 9756

in division (H) (2) of this section from the amount described in 9757
division (H) (1) of this section: 9758

(1) The sum of the electric company tax value loss 9759
multiplied by the tax rate in effect in tax year 1998, and the 9760
natural gas company tax value loss multiplied by the tax rate in 9761
effect in tax year 1999, for fixed-sum levies for all taxing 9762
districts within each school district, joint vocational school 9763
district, and local taxing unit. For the years 2002 through 9764
2006, this computation shall include school district emergency 9765
levies that existed in 1998 in the case of the electric company 9766
tax value loss, and 1999 in the case of the natural gas company 9767
tax value loss, and all other fixed-sum levies that existed in 9768
1998 in the case of the electric company tax value loss and 1999 9769
in the case of the natural gas company tax value loss and 9770
continue to be charged in the tax year preceding the 9771
distribution year. For the years 2007 through 2016 in the case 9772
of school district emergency levies, and for all years after 9773
2006 in the case of all other fixed-sum levies, this computation 9774
shall exclude all fixed-sum levies that existed in 1998 in the 9775
case of the electric company tax value loss and 1999 in the case 9776
of the natural gas company tax value loss, but are no longer in 9777
effect in the tax year preceding the distribution year. For the 9778
purposes of this section, an emergency levy that existed in 1998 9779
in the case of the electric company tax value loss, and 1999 in 9780
the case of the natural gas company tax value loss, continues to 9781
exist in a year beginning on or after January 1, 2007, but 9782
before January 1, 2017, if, in that year, the board of education 9783
levies a school district emergency levy for an annual sum at 9784
least equal to the annual sum levied by the board in tax year 9785
1998 or 1999, respectively, less the amount of the payment 9786
certified under this division for 2002. 9787

(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. 9788
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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. 9792
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(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. 9803
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(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 9813
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calculated under division (H) of this section. The calculations 9818
under divisions (G) and (H) of this section shall separately 9819
display the levy loss for each levy eligible for reimbursement. 9820

(K) Not later than September 1, 2001, the tax commissioner 9821
shall certify the amount of the fixed-sum levy loss to the 9822
county auditor of each county in which a school district with a 9823
fixed-sum levy loss has territory. 9824

Sec. 5729.98. (A) To provide a uniform procedure for 9825
calculating the amount of tax due under this chapter, a taxpayer 9826
shall claim any credits and offsets against tax liability to 9827
which it is entitled in the following order: 9828

~~(1)~~The credit for an insurance company or insurance 9829
company group under section 5729.031 of the Revised Code; 9830

~~(2)~~The credit for eligible employee training costs under 9831
section 5729.07 of the Revised Code; 9832

~~(3)~~The credit for purchases of qualified low-income 9833
community investments under section 5729.16 of the Revised Code; 9834

~~(4)~~The nonrefundable job retention credit under division 9835
(B) of section 122.171 of the Revised Code; 9836

~~(5)~~The nonrefundable credit for investments in rural 9837
business growth funds under section 122.152 of the Revised Code; 9838

~~(6)~~The offset of assessments by the Ohio life and health 9839
insurance guaranty association against tax liability permitted 9840
by section 3956.20 of the Revised Code; 9841

~~(7)~~The refundable credit for rehabilitating a historic 9842
building under section 5729.17 of the Revised Code; 9843

~~(8)~~The refundable credit for Ohio job retention under 9844

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;

~~(9)~~—The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

~~(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.

(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. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5733.042. (A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(2) "Asset value" means the adjusted basis of assets as determined in accordance with Subchapter O of the Internal Revenue Code and the Treasury Regulations thereunder.

(3) "Intangible expenses and costs" include expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition of, the direct or indirect use of, the direct or indirect maintenance or

management of, the direct or indirect ownership of, the direct 9874
or indirect sale of, the direct or indirect exchange of, or any 9875
other direct or indirect disposition of intangible property to 9876
the extent such amounts are allowed as deductions or costs in 9877
determining taxable income before operating loss deduction and 9878
special deductions for the taxable year under the Internal 9879
Revenue Code. Such expenses and costs include, but are not 9880
limited to, losses related to or incurred in connection directly 9881
or indirectly with factoring transactions, losses related to or 9882
incurred in connection directly or indirectly with discounting 9883
transactions, royalty, patent, technical, and copyright fees, 9884
licensing fees, and other similar expenses and costs. 9885

(4) "Interest expenses and costs" include but are not 9886
limited to amounts directly or indirectly allowed as deductions 9887
under section 163 of the Internal Revenue Code for purposes of 9888
determining taxable income under the Internal Revenue Code. 9889

(5) "Member" has the same meaning as in U.S. Treasury 9890
Regulation section 1.1502-1. 9891

(6) "Related member" means a person that, with respect to 9892
the taxpayer during all or any portion of the taxable year, is a 9893
"related entity" as defined in division (I) (12) (c) of section 9894
5733.04 of the Revised Code, is a component member as defined in 9895
section 1563(b) of the Internal Revenue Code, or is a person to 9896
or from whom there is attribution of stock ownership in 9897
accordance with section 1563(e) of the Internal Revenue Code 9898
except, for purposes of determining whether a person is a 9899
related member under this division, "twenty per cent" shall be 9900
substituted for "5 per cent" wherever "5 per cent" appears in 9901
section 1563(e) of the Internal Revenue Code. 9902

(B) This section applies to all corporations for tax years 9903

1999 and thereafter. For tax years prior to 1999, this section 9904
applies only to a corporation that has, or is a member of an 9905
affiliated group that has, or is a member of an affiliated group 9906
with another member that has, one or more of the following: 9907

(1) Gross sales, including sales to other members of the 9908
affiliated group, during the taxable year of at least fifty 9909
million dollars; 9910

(2) Total assets whose asset value at any time during the 9911
taxable year is at least twenty-five million dollars; 9912

(3) Taxable income before operating loss deduction and 9913
special deductions during the taxable year of at least five 9914
hundred thousand dollars. 9915

(C) For purposes of computing its net income under 9916
division (I) of section 5733.04 of the Revised Code, the 9917
corporation shall add interest expenses and costs and intangible 9918
expenses and costs directly or indirectly paid, accrued, or 9919
incurred to, or in connection directly or indirectly with one or 9920
more direct or indirect transactions with, one or more of the 9921
following related members: 9922

(1) Any related member whose activities, in any one state, 9923
are primarily limited to the maintenance and management of 9924
intangible investments or of the intangible investments of 9925
corporations, business trusts, or other entities registered as 9926
investment companies under the "Investment Company Act of 1940," 9927
15 U.S.C. 80a-1 et seq., as amended, and the collection and 9928
distribution of the income from such investments or from 9929
tangible property physically located outside such state. For 9930
purposes of division (C)(1) of this section, "intangible 9931
investments" includes, without limitation, investments in 9932

stocks, bonds, notes, and other debt obligations, including debt 9933
obligations of related members, interests in partnerships, 9934
patents, patent applications, trademarks, trade names, and 9935
similar types of intangible assets. 9936

(2) Any related member that is a personal holding company 9937
as defined in section 542 of the Internal Revenue Code without 9938
regard to the stock ownership requirements set forth in section 9939
542(a)(2) of the Internal Revenue Code; 9940

(3) Any related member that is not a corporation and is 9941
directly, indirectly, constructively, or beneficially owned in 9942
whole or in part by a personal holding company as defined in 9943
section 542 of the Internal Revenue Code without regard to the 9944
stock ownership requirements set forth in section 542(a)(2) of 9945
the Internal Revenue Code; 9946

(4) Any related member that is a foreign personal holding 9947
company as defined in section 552 of the Internal Revenue Code; 9948

(5) Any related member that is not a corporation and is 9949
directly, indirectly, constructively, or beneficially owned in 9950
whole or in part by a foreign personal holding company as 9951
defined in section 552 of the Internal Revenue Code; 9952

(6) Any related member if that related member or another 9953
related member directly or indirectly paid, accrued, or incurred 9954
to, or in connection directly or indirectly with one or more 9955
direct or indirect transactions with, another related member any 9956
interest expenses and costs or intangible expenses and costs in 9957
an amount less than, equal to, or greater than such amounts 9958
received from the corporation. Division (C)(6) of this section 9959
applies only if, within a one-hundred-twenty-month period 9960
commencing three years prior to the beginning of the tax year, a 9961

related member directly or indirectly paid, accrued, or incurred 9962
such amounts or losses with respect to one or more direct or 9963
indirect transactions with an entity described in divisions (C) 9964
(1) to (5) of this section. A rebuttable presumption exists that 9965
a related member did so pay, accrue, or incur such amounts or 9966
losses with respect to one or more direct or indirect 9967
transactions with an entity described in divisions (C) (1) to (5) 9968
of this section. A corporation can rebut this presumption only 9969
with a preponderance of the evidence to the contrary. 9970

(7) Any related member that, with respect to indebtedness 9971
directly or indirectly owed by the corporation to the related 9972
member, directly or indirectly charged or imposed on the 9973
corporation an excess interest rate. If the related member has 9974
charged or imposed on the corporation an excess interest rate, 9975
the adjustment required by division (C) (7) of this section with 9976
respect to such interest expenses and costs directly or 9977
indirectly paid, accrued, or incurred to the related member in 9978
connection with such indebtedness does not include so much of 9979
such interest expenses and costs that the corporation would have 9980
directly or indirectly paid, accrued, or incurred if the related 9981
member had charged or imposed the highest possible interest rate 9982
that would not have been an excess interest rate. For purposes 9983
of division (C) (7) of this section, an excess interest rate is 9984
an annual rate that exceeds by more than three per cent the 9985
greater of the rate per annum prescribed by section 5703.47 of 9986
the Revised Code in effect at the time of the origination of the 9987
indebtedness, or the rate per annum prescribed by section 9988
5703.47 of the Revised Code in effect at the time the 9989
corporation paid, accrued, or incurred the interest expense or 9990
cost to the related member. 9991

(D) (1) In making the adjustment required by division (C) 9992

of this section, the corporation shall make the adjustment 9993
required by section 5733.057 of the Revised Code. The 9994
adjustments required by division (C) of this section are not 9995
required if either of the following applies: 9996

(a) The corporation establishes by clear and convincing 9997
evidence that the adjustments are unreasonable. 9998

(b) The corporation and the tax commissioner agree in 9999
writing to the application or use of alternative adjustments and 10000
computations to more properly reflect the base required to be 10001
determined in accordance with division (B) of section 5733.05 of 10002
the Revised Code. Nothing in division (D)(1)(b) of this section 10003
shall be construed to limit or negate the tax commissioner's 10004
authority to otherwise enter into agreements and compromises 10005
otherwise allowed by law. 10006

(2) The adjustments required by divisions (C)(1) to (5) of 10007
this section do not apply to such portion of interest expenses 10008
and costs and intangible expenses and costs that the corporation 10009
can establish by the preponderance of the evidence meets both of 10010
the following: 10011

(a) The related member during the same taxable year 10012
directly or indirectly paid, accrued, or incurred such portion 10013
to a person who is not a related member. 10014

(b) The transaction giving rise to the interest expenses 10015
and costs or the intangible expenses and costs between the 10016
corporation and the related member did not have as a principal 10017
purpose the avoidance of any portion of the tax due under this 10018
chapter. 10019

(3) The adjustments required by division (C)(6) of this 10020
section do not apply to such portion of interest expenses and 10021

costs and intangible expenses and costs that the corporation can 10022
establish by the preponderance of the evidence meets both of the 10023
following: 10024

(a) The entity described in any of divisions (C) (1) to (6) 10025
of this section to whom the related member directly or 10026
indirectly paid, accrued, or incurred such portion, in turn 10027
during the same taxable year directly or indirectly paid, 10028
accrued or incurred such portion to a person who is not a 10029
related member, and 10030

(b) The transaction or transactions giving rise to the 10031
interest expenses and costs or the intangible expenses and costs 10032
between the corporation, the related member, and the entity 10033
described in any of divisions (C) (1) to (5) of this section did 10034
not have as a principal purpose the avoidance of any portion of 10035
the tax due under this chapter. 10036

(4) The adjustments required by division (C) of this 10037
section apply except to the extent that the increased tax, if 10038
any, attributable to such adjustments would have been avoided if 10039
both the corporation and the related member had been eligible to 10040
make and had timely made the election to combine in accordance 10041
with division (B) of section 5733.052 of the Revised Code. 10042

(E) Except as otherwise provided in division (F) of this 10043
section, if, on the day that is one year after the day the 10044
corporation files its report, the corporation has not made the 10045
adjustment required by this section or has not fully paid the 10046
tax and interest, if any, imposed by this chapter and 10047
attributable to such adjustment, the corporation is subject to a 10048
penalty equal to twice the interest charged under division (A) 10049
of section 5733.26 of the Revised Code for the delinquent 10050
payment of such tax and interest. For the purpose of the 10051

computation of the penalty imposed by this division, such 10052
penalty shall be deemed to be part of the tax due on the dates 10053
prescribed by this chapter without regard to the one-year period 10054
set forth in this division. The penalty imposed by this division 10055
is not in lieu of but is in addition to all other penalties, 10056
other similar charges, and interest imposed by this chapter. The 10057
tax commissioner may waive, abate, modify, or refund, with 10058
interest, all or any portion of the penalty imposed by this 10059
division only if the corporation establishes beyond a reasonable 10060
doubt that both the failure to fully comply with this section 10061
and the failure to fully pay such tax and interest within one 10062
year after the date the corporation files its report were not in 10063
any part attributable to the avoidance of any portion of the tax 10064
imposed by section 5733.06 of the Revised Code. 10065

(F) (1) For purposes of this division, "tax differential" 10066
means the difference between the tax that is imposed by section 10067
5733.06 of the Revised Code and that is attributable to the 10068
adjustment required by this section and the amount paid that is 10069
so attributable, prior to the day that is one year after the day 10070
the corporation files its report. 10071

(2) The penalty imposed by division (E) of this section 10072
does not apply if the tax differential meets both of the 10073
following requirements: 10074

(a) The tax differential is less than ten per cent of the 10075
tax imposed by section 5733.06 of the Revised Code; and 10076

(b) The difference is less than fifty thousand dollars. 10077

(3) Nothing in division (F) of this section shall be 10078
construed to waive, abate, or modify any other penalties, other 10079
similar charges, or interest imposed by other sections of this 10080

chapter. 10081

(G) Nothing in this section shall require a corporation to 10082
add to its net income more than once any amount of interest 10083
expenses and costs or intangible expenses and costs that the 10084
corporation pays, accrues, or incurs to a related member 10085
described in division (C) of this section. 10086

Sec. 5733.05. As used in this section, "qualified 10087
research" means laboratory research, experimental research, and 10088
other similar types of research; research in developing or 10089
improving a product; or research in developing or improving the 10090
means of producing a product. It does not include market 10091
research, consumer surveys, efficiency surveys, management 10092
studies, ordinary testing or inspection of materials or products 10093
for quality control, historical research, or literary research. 10094
"Product" as used in this paragraph does not include services or 10095
intangible property. 10096

The annual report determines the value of the issued and 10097
outstanding shares of stock of the taxpayer, which under 10098
division (A) or divisions (B) and (C) of this section is the 10099
base or measure of the franchise tax liability. Such 10100
determination shall be made as of the date shown by the report 10101
to have been the beginning of the corporation's annual 10102
accounting period that includes the first day of January of the 10103
tax year. For the purposes of this chapter, the value of the 10104
issued and outstanding shares of stock of any corporation that 10105
is a financial institution shall be deemed to be the value as 10106
calculated in accordance with division (A) of this section. For 10107
the purposes of this chapter, the value of the issued and 10108
outstanding shares of stock of any corporation that is not a 10109
financial institution shall be deemed to be the values as 10110

calculated in accordance with divisions (B) and (C) of this 10111
section. Except as otherwise required by this section or section 10112
5733.056 of the Revised Code, the value of a taxpayer's issued 10113
and outstanding shares of stock under division (A) or (C) of 10114
this section does not include any amount that is treated as a 10115
liability under generally accepted accounting principles. 10116

(A) The total value, as shown by the books of the 10117
financial institution, of its capital, surplus, whether earned 10118
or unearned, undivided profits, and reserves shall be determined 10119
as prescribed by section 5733.056 of the Revised Code for tax 10120
years 1998 and thereafter. 10121

(B) The sum of the corporation's net income during the 10122
corporation's taxable year, allocated or apportioned to this 10123
state as prescribed in divisions (B)(1) and (2) of this section, 10124
and subject to sections 5733.052, 5733.053, 5733.057, 5733.058, 10125
5733.059, and 5733.0510 of the Revised Code: 10126

(1) The net nonbusiness income allocated or apportioned to 10127
this state as provided by section 5733.051 of the Revised Code. 10128

(2) The amount of Ohio apportioned net business income, 10129
which shall be calculated by multiplying the corporation's net 10130
business income by a fraction. The numerator of the fraction is 10131
the sum of the following products: the property factor 10132
multiplied by twenty, the payroll factor multiplied by twenty, 10133
and the sales factor multiplied by sixty. The denominator of the 10134
fraction is one hundred, provided that the denominator shall be 10135
reduced by twenty if the property factor has a denominator of 10136
zero, by twenty if the payroll factor has a denominator of zero, 10137
and by sixty if the sales factor has a denominator of zero. 10138

The property, payroll, and sales factors shall be 10139

determined as follows, but the numerator and the denominator of 10140
the factors shall not include the portion of any property, 10141
payroll, and sales otherwise includible in the factors to the 10142
extent that the portion relates to, or is used in connection 10143
with, the production of nonbusiness income allocated under 10144
section 5733.051 of the Revised Code: 10145

(a) The property factor is a fraction computed as follows: 10146

The numerator of the fraction is the average value of the 10147
corporation's real and tangible personal property owned or 10148
rented, and used in the trade or business in this state during 10149
the taxable year, and the denominator of the fraction is the 10150
average value of all the corporation's real and tangible 10151
personal property owned or rented, and used in the trade or 10152
business everywhere during such year. Real and tangible personal 10153
property used in the trade or business includes, but is not 10154
limited to, real and tangible personal property that the 10155
corporation rents, subrents, leases, or subleases to others if 10156
the income or loss from such rentals, subrentals, leases, or 10157
subleases is business income. There shall be excluded from the 10158
numerator and denominator of the fraction the original cost of 10159
all of the following property within Ohio: property with respect 10160
to which a "pollution control facility" certificate has been 10161
issued pursuant to section 5709.21 of the Revised Code; property 10162
with respect to which an "industrial water pollution control 10163
certificate" has been issued pursuant to that section or former 10164
section 6111.31 of the Revised Code; and property used 10165
exclusively during the taxable year for qualified research. 10166

(i) Property owned by the corporation is valued at its 10167
original cost. Property rented by the corporation is valued at 10168
eight times the net annual rental rate. "Net annual rental rate" 10169

means the annual rental rate paid by the corporation less any 10170
annual rental rate received by the corporation from subrentals. 10171

(ii) The average value of property shall be determined by 10172
averaging the values at the beginning and the end of the taxable 10173
year, but the tax commissioner may require the averaging of 10174
monthly values during the taxable year, if reasonably required 10175
to reflect properly the average value of the corporation's 10176
property. 10177

(b) The payroll factor is a fraction computed as follows: 10178

The numerator of the fraction is the total amount paid in 10179
this state during the taxable year by the corporation for 10180
compensation, and the denominator of the fraction is the total 10181
compensation paid everywhere by the corporation during such 10182
year. There shall be excluded from the numerator and the 10183
denominator of the payroll factor the total compensation paid in 10184
this state to employees who are primarily engaged in qualified 10185
research. 10186

(i) Compensation means any form of remuneration paid to an 10187
employee for personal services. 10188

(ii) Compensation is paid in this state if: (I) the 10189
recipient's service is performed entirely within this state, 10190
(II) the recipient's service is performed both within and 10191
without this state, but the service performed without this state 10192
is incidental to the recipient's service within this state, 10193
(III) some of the service is performed within this state and 10194
either the base of operations, or if there is no base of 10195
operations, the place from which the service is directed or 10196
controlled is within this state, or the base of operations or 10197
the place from which the service is directed or controlled is 10198

not in any state in which some part of the service is performed, 10199
but the recipient's residence is in this state. 10200

(iii) Compensation is paid in this state to any employee 10201
of a common or contract motor carrier corporation, who performs 10202
the employee's regularly assigned duties on a motor vehicle in 10203
more than one state, in the same ratio by which the mileage 10204
traveled by such employee within the state bears to the total 10205
mileage traveled by such employee everywhere during the taxable 10206
year. 10207

(c) The sales factor is a fraction computed as follows: 10208

Except as provided in this section, the numerator of the 10209
fraction is the total sales in this state by the corporation 10210
during the taxable year or part thereof, and the denominator of 10211
the fraction is the total sales by the corporation everywhere 10212
during such year or part thereof. In computing the numerator and 10213
denominator of the fraction, the following shall be eliminated 10214
from the fraction: receipts and any related gains or losses from 10215
the sale or other disposal of excluded assets; dividends or 10216
distributions; and interest or other similar amounts received 10217
for the use of, or for the forbearance of the use of, money. 10218
Also, in computing the numerator and denominator of the sales 10219
factor, in the case of a corporation owning at least eighty per 10220
cent of the issued and outstanding common stock of one or more 10221
insurance companies or public utilities, except an electric 10222
company and a combined company, and, for tax years 2005 and 10223
thereafter, a telephone company, or owning at least twenty-five 10224
per cent of the issued and outstanding common stock of one or 10225
more financial institutions, receipts received by the 10226
corporation from such utilities, insurance companies, and 10227
financial institutions shall be eliminated. As used in this 10228

division, "excluded assets" means property that is either: 10229
intangible property, other than trademarks, trade names, 10230
patents, copyrights, and similar intellectual property; or 10231
tangible personal property or real property where that property 10232
is a capital asset or an asset described in section 1231 of the 10233
Internal Revenue Code, without regard to the holding period 10234
specified therein. 10235

(i) For the purpose of this section and section 5733.03 of 10236
the Revised Code, receipts not eliminated or excluded from the 10237
fraction shall be situated as follows: 10238

Receipts from rents and royalties from real property 10239
located in this state shall be situated to this state. 10240

Receipts from rents and royalties of tangible personal 10241
property, to the extent the tangible personal property is used 10242
in this state, shall be situated to this state. 10243

Receipts from the sale of electricity and of electric 10244
transmission and distribution services shall be situated to this 10245
state in the manner provided under section 5733.059 of the 10246
Revised Code. 10247

Receipts from the sale of real property located in this 10248
state shall be situated to this state. 10249

Receipts from the sale of tangible personal property shall 10250
be situated to this state if such property is received in this 10251
state by the purchaser. In the case of delivery of tangible 10252
personal property by common carrier or by other means of 10253
transportation, the place at which such property is ultimately 10254
received after all transportation has been completed shall be 10255
considered as the place at which such property is received by 10256
the purchaser. Direct delivery in this state, other than for 10257

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.

(ii) Receipts from all other sales not eliminated or excluded from the fraction shall be situated to this state as follows:

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 situated 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 situated to this state to the extent the receipts are based on the right to use the property in this state.

Receipts from the sale of services, and receipts from any other sales not eliminated or excluded from the sales factor and not otherwise situated under division (B) (2) (c) of this section, shall be situated to this state in the proportion to the purchaser's benefit, with respect to the sale, in this state to the purchaser's benefit, with respect to the sale, everywhere. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining the proportion of the benefit in this state to the

benefit everywhere.	10288
(iii) Income from receipts eliminated or excluded from the sales factor under division (B) (2) (c) of this section shall not be presumed to be nonbusiness income.	10289 10290 10291
(d) If the allocation and apportionment provisions of division (B) of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may request, which request must be in writing and must accompany the report, a timely filed petition for reassessment, or a timely filed amended report, or the tax commissioner may require, in respect to all or any part of the taxpayer's allocated or apportioned base, if reasonable, any one or more of the following:	10292 10293 10294 10295 10296 10297 10298 10299 10300
(i) Separate accounting;	10301
(ii) The exclusion of any one or more of the factors;	10302
(iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's allocated or apportioned base in this state.	10303 10304 10305
An alternative method will be effective only with approval by the tax commissioner.	10306 10307
Nothing in this section shall be construed to extend any statute of limitations set forth in this chapter.	10308 10309
(e) The tax commissioner may adopt rules providing for alternative allocation and apportionment methods, and alternative calculations of a corporation's base, that apply to corporations engaged in telecommunications.	10310 10311 10312 10313
(C) (1) The total value, as shown on the books of each corporation that is not a qualified <u>qualifying</u> holding company,	10314 10315

of the net book value of the corporation's assets less the net 10316
carrying value of its liabilities, and excluding from the 10317
corporation's assets land devoted exclusively to agricultural 10318
use as of the first Monday of June in the corporation's taxable 10319
year as determined by the county auditor of the county in which 10320
the land is located pursuant to section 5713.31 of the Revised 10321
Code, and making any adjustment required by division (D) of this 10322
section. For the purposes of determining that total value, any 10323
reserves shown on the corporation's books shall be considered 10324
liabilities or contra assets, as the case may be, except for any 10325
reserves that are deemed appropriations of retained earnings 10326
under generally accepted accounting principles. 10327

(2) The base upon which the tax is levied under division 10328
(C) of section 5733.06 of the Revised Code shall be computed by 10329
multiplying the amount determined under division (C)(1) of this 10330
section by the fraction determined under divisions (B)(2)(a) to 10331
(c) of this section and, if applicable, divisions (B)(2)(d)(ii) 10332
and (iii) of this section, and without regard to section 10333
5733.052 of the Revised Code, but substituting "net worth" for 10334
"net income" wherever "net income" appears in division (B)(2)(c) 10335
in this section. For purposes of division (C)(2) of this 10336
section, the numerator and denominator of each of the fractions 10337
shall include the portion of any real and tangible personal 10338
property, payroll, and sales, respectively, relating to, or used 10339
in connection with the production of, net nonbusiness income 10340
allocated under section 5733.051 of the Revised Code. Nothing in 10341
this division shall allow any amount to be included in the 10342
numerator or denominator more than once. 10343

(D)(1) If, on the last day of the taxpayer's taxable year 10344
preceding the tax year, the taxpayer is a related member to a 10345
corporation that elects to be a qualifying holding company for 10346

the tax year beginning after the last day of the taxpayer's 10347
taxable year, or if, on the last day of the taxpayer's taxable 10348
year preceding the tax year, a corporation that elects to be a 10349
qualifying holding company for the tax year beginning after the 10350
last day of the taxpayer's taxable year is a related member to 10351
the taxpayer, then the taxpayer's total value for the purposes 10352
of division (C) of this section shall be adjusted by the 10353
qualifying amount. Except as otherwise provided under division 10354
(D) (2) of this section, "qualifying amount" means the amount 10355
that, when added to the taxpayer's total value, and when 10356
subtracted from the net carrying value of the taxpayer's 10357
liabilities computed without regard to division (C) (2) of this 10358
section, or when subtracted from the taxpayer's total value and 10359
when added to the net carrying value of the taxpayer's 10360
liabilities computed without regard to division (D) of this 10361
section, results in the taxpayer's debt-to-equity ratio equaling 10362
the debt-to-equity ratio of the qualifying controlled group on 10363
the last day of the taxable year ending prior to the first day 10364
of the tax year computed on a consolidated basis in accordance 10365
with general accepted accounting principles. For the purposes of 10366
division (D) (1) of this section, the corporation's total value, 10367
after the adjustment required by that division, shall not exceed 10368
the net book value of the corporation's assets. 10369

(2) (a) The amount added to the taxpayer's total value and 10370
subtracted from the net carrying value of the taxpayer's 10371
liabilities shall not exceed the amount of the net carrying 10372
value of the taxpayer's liabilities owed to the taxpayer's 10373
related members. 10374

(b) A liability owed to the taxpayer's related members 10375
includes, but is not limited to, any amount that the corporation 10376
owes to a person that is not a related member if the 10377

corporation's related member or related members in whole or in part guarantee any portion or all of that amount, or pledge, hypothecate, mortgage, or carry out any similar transactions to secure any portion or all of that amount.

(3) The base upon which the tax is levied under division (C) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under divisions (C) and (D) of this section but without regard to section 5733.052 of the Revised Code.

(4) For purposes of division (D) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code.

Sec. 5733.052. (A) At the discretion of the tax commissioner, any taxpayer that owns or controls either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, or has more than fifty per cent of its capital stock with voting rights owned or controlled either directly or indirectly by another corporation, or by related interests that own or control either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, may be required or permitted, for purposes of computing the value of its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, to combine its net income with the net income of any such other corporations.

(B) A combination of net income may also be made at the election of any two or more taxpayers each having income, other than dividend or distribution income, from sources within Ohio, provided the ownership or control requirements contained in ~~the~~ division (A) of this section are satisfied and such combination

is elected in a timely report which sets forth such information 10408
as the commissioner requires. This election, once made by two or 10409
more such taxpayers, may not be changed by such taxpayers with 10410
respect to amended reports or reports for future years without 10411
the written consent of the commissioner. As used in this 10412
section, "income from sources within Ohio" means income that 10413
would be allocated or apportioned to Ohio if the taxpayer 10414
computed its franchise tax without regard to this section. 10415

(C) No combination of net income under division (A) of 10416
this section shall be required unless the commissioner 10417
determines that, in order to properly reflect income, such a 10418
combination is necessary because of intercorporate transactions 10419
and the tax liability imposed by section 5733.06 of the Revised 10420
Code. 10421

(D) In case of a combination of income, the net income of 10422
each taxpayer shall be measured by the combined net income of 10423
all the corporations included in the combination. For purposes 10424
of such measurement, each corporation's net income shall be 10425
determined in the same manner as if the corporation were a 10426
taxpayer under this chapter. In computing combined net income, 10427
intercorporate transactions, including dividends or 10428
distributions, between corporations included in the combination 10429
shall be eliminated. If the computation of net income on a 10430
combination of income involves the use of any of the formulas 10431
set forth in this chapter, the factors used in the formulas 10432
shall be the combined totals of the factors for each corporation 10433
included in the combination after the elimination of any 10434
intercorporate transactions. The exemptions and deductions 10435
permitted under this chapter shall be taken in the same manner 10436
as if each corporation filed a separate report. 10437

(E) For purposes of division (B) of section 5733.05 of the Revised Code, each taxpayer's net income allocated or apportioned to this state shall be computed as follows: to compute the taxpayer's net income allocated to this state for purposes of division (B)(1) of section 5733.05 of the Revised Code, the taxpayer's net income for sources allocated under section 5733.051 of the Revised Code shall be separately determined, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code. To compute the taxpayer's net income apportioned to this state for purposes of division (B)(2) of section 5733.05 of the Revised Code, the combined net income, other than net income from sources allocated under section 5733.051 of the Revised Code, shall be apportioned to Ohio and then prorated to the taxpayer on the basis of its proportionate part of the factors used to apportion the total of such net income to Ohio.

Sec. 5733.055. (A) As used in this section:

(1) "Ceiling amount" means the excess of the amount described in division (A)(1)(a) of this section over the amount described in division (A)(1)(b) of this section:

(a) The amount of income allocated and apportioned to this state in accordance with this chapter but without regard to and without application of the adjustments required by this section;

(b) The amount of income allocated and apportioned to this state in accordance with this chapter but without regard to and without application of the adjustments required by both this section and division (I)(13) of section 5733.04 of the Revised Code.

(2) "Income adjustment amount" means the sum of the

amounts described in divisions (A) (2) (a) and (b) of this 10467
section: 10468

(a) The related member's net interest income actually 10469
allocated and apportioned to other states that impose a tax on 10470
or measured by income, in accordance with the other states' 10471
allocation and apportionment rules; 10472

(b) The related member's net intangible income actually 10473
allocated and apportioned to other states that impose a tax on 10474
or measured by income, in accordance with the other states' 10475
allocation and apportionment rules. 10476

For purposes of division (A) (2) of this section, "other 10477
states" does not include those states under whose laws the 10478
taxpayer files or could have elected to file with the related 10479
member, or the related member files or could have elected to 10480
file with another related member, a combined income tax report 10481
or return, a consolidated income tax report or return, or any 10482
other report or return where such report or return is due 10483
because of the imposition of a tax measured on or by income and 10484
such report or return results in the elimination of the tax 10485
effects from transactions directly or indirectly between either 10486
the taxpayer and the related member or between the related 10487
member and another corporation if such other corporation, during 10488
a one-hundred-twenty-month period commencing three years prior 10489
to the beginning of the tax year, directly or indirectly paid, 10490
accrued, or incurred intangible expenses and costs or interest 10491
expenses and costs to an entity described in divisions (C) (1) to 10492
(5) of section 5733.042 of the Revised Code. 10493

(3) "Intangible expenses and costs" has the same meaning 10494
as in division (A) (3) of section 5733.042 of the Revised Code. 10495

(4) "Interest expenses and costs" has the same meaning as	10496
in division (A) (4) of section 5733.042 of the Revised Code.	10497
(5) "Intangible income and revenue" are those amounts	10498
earned or received by a related member from a taxpayer for the	10499
taxpayer's use of intangible property. Such amounts include, but	10500
are not limited to, royalty, patent, technical, and copyright	10501
fees, licensing fees, and other similar income and revenue.	10502
(6) "Interest income and revenue" are those amounts earned	10503
or received by a related member from a taxpayer to the extent	10504
such amounts are allowed as deductions under section 163 of the	10505
Internal Revenue Code for purposes of determining the taxpayer's	10506
taxable income under the Internal Revenue Code.	10507
(7) "Net intangible income" means intangible income and	10508
revenue reduced by intangible expenses and costs paid or accrued	10509
directly or indirectly to a related member described in any of	10510
divisions (C) (1) to (7) of section 5747.042 of the Revised Code.	10511
(8) "Net interest income" means interest income and	10512
revenue reduced by interest expenses and costs paid or accrued	10513
directly or indirectly to a related member described in any of	10514
divisions (C) (1) to (7) of section 5747.042 <u>5733.042</u> of the	10515
Revised Code.	10516
(B) Except as set forth in division (C) of this section, a	10517
deduction from the corporation's net income allocated and	10518
apportioned to this state shall be allowed in an amount equal to	10519
the income adjustment amount described in division (A) (2) of	10520
this section. However, in no case shall the deduction be greater	10521
than the ceiling amount described in division (A) (1) of this	10522
section.	10523
(C) The deduction provided by division (B) of this section	10524

is available to the taxpayer only if the taxpayer establishes 10525
with clear and convincing evidence that the intangible expenses 10526
and costs and the interest expenses and costs paid, accrued, or 10527
incurred by the corporation to a related member did not have as 10528
a principal purpose the avoidance of any portion of the tax 10529
imposed by section 5733.06 of the Revised Code. 10530

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and 10531
Chapter 5747. of the Revised Code: 10532

(A) (1) "Adjusted qualifying amount" means either of the 10533
following: 10534

(a) The sum of each qualifying investor's distributive 10535
share of the income, gain, expense, or loss of a qualifying 10536
pass-through entity for the qualifying taxable year of the 10537
qualifying pass-through entity multiplied by the apportionment 10538
fraction defined in division (B) of this section, subject to 10539
section 5733.401 of the Revised Code and divisions (A) (2) to (7) 10540
of this section; 10541

(b) The sum of each qualifying beneficiary's share of the 10542
qualifying net income and qualifying net gain distributed by a 10543
qualifying trust for the qualifying taxable year of the 10544
qualifying trust multiplied by the apportionment fraction 10545
defined in division (B) of this section, subject to section 10546
5733.401 of the Revised Code and divisions (A) (2) to (7) of this 10547
section. 10548

(2) The sum shall exclude any amount which, pursuant to 10549
the Constitution of the United States, the Constitution of Ohio, 10550
or any federal law is not subject to a tax on or measured by net 10551
income. 10552

(3) For the purposes of Chapters 5733. and 5747. of the 10553

Revised Code, the profit or net income of the qualifying entity 10554
shall be increased by disallowing all amounts representing 10555
expenses, other than amounts described in division (A) (7) of 10556
this section, that the qualifying entity paid to or incurred 10557
with respect to direct or indirect transactions with one or more 10558
related members, excluding the cost of goods sold calculated in 10559
accordance with section 263A of the Internal Revenue Code and 10560
United States department of the treasury regulations issued 10561
thereunder. Nothing in division (A) (3) of this section shall be 10562
construed to limit solely to this chapter the application of 10563
section 263A of the Internal Revenue Code and United States 10564
department of the treasury regulations issued thereunder. 10565

(4) For the purposes of Chapters 5733. and 5747. of the 10566
Revised Code, the profit or net income of the qualifying entity 10567
shall be increased by disallowing all recognized losses, other 10568
than losses from sales of inventory the cost of which is 10569
calculated in accordance with section 263A of the Internal 10570
Revenue Code and United States department of the treasury 10571
regulations issued thereunder, with respect to all direct or 10572
indirect transactions with one or more related members. For the 10573
purposes of Chapters 5733. and 5747. of the Revised Code, losses 10574
from the sales of such inventory shall be allowed only to the 10575
extent calculated in accordance with section 482 of the Internal 10576
Revenue Code and United States department of the treasury 10577
regulations issued thereunder. Nothing in division (A) (4) of 10578
this section shall be construed to limit solely to this section 10579
the application of section 263A and section 482 of the Internal 10580
Revenue Code and United States department of the treasury 10581
regulations issued thereunder. 10582

(5) The sum shall be increased or decreased by an amount 10583
equal to the qualifying investor's or qualifying beneficiary's 10584

distributive or proportionate share of the amount that the 10585
qualifying entity would be required to add or deduct under 10586
divisions ~~(A) (20)~~ (A) (17) and ~~(21)~~ (18) of section 5747.01 of 10587
the Revised Code if the qualifying entity were a taxpayer for 10588
the purposes of Chapter 5747. of the Revised Code. 10589

(6) The sum shall be computed without regard to section 10590
5733.051 or division (D) of section 5733.052 of the Revised 10591
Code. 10592

(7) For the purposes of Chapters 5733. and 5747. of the 10593
Revised Code, guaranteed payments or compensation paid to 10594
investors by a qualifying entity that is not subject to the tax 10595
imposed by section 5733.06 of the Revised Code shall be 10596
considered a distributive share of income of the qualifying 10597
entity. Division (A) (7) of this section applies only to such 10598
payments or such compensation paid to an investor who at any 10599
time during the qualifying entity's taxable year holds at least 10600
a twenty per cent direct or indirect interest in the profits or 10601
capital of the qualifying entity. For the purposes of this 10602
division, guaranteed payments and compensation shall be 10603
considered to be paid to an investor by a qualifying entity if 10604
the qualifying entity in which the investor holds at least a 10605
twenty per cent direct or indirect interest is a client employer 10606
of a professional employer organization, as those terms are 10607
defined in section 4125.01 of the Revised Code, and the 10608
guaranteed payments or compensation are paid to the investor by 10609
that professional employer organization. 10610

(B) "Apportionment fraction" means: 10611

(1) With respect to a qualifying pass-through entity other 10612
than a financial institution, the fraction calculated pursuant 10613
to division (B) (2) of section 5733.05 of the Revised Code as if 10614

the qualifying pass-through entity were a corporation subject to 10615
the tax imposed by section 5733.06 of the Revised Code; 10616

(2) With respect to a qualifying pass-through entity that 10617
is a financial institution, the fraction calculated pursuant to 10618
division (C) of section 5733.056 of the Revised Code as if the 10619
qualifying pass-through entity were a financial institution 10620
subject to the tax imposed by section 5733.06 of the Revised 10621
Code. 10622

(3) With respect to a qualifying trust, the fraction 10623
calculated pursuant to division (B)(2) of section 5733.05 of the 10624
Revised Code as if the qualifying trust were a corporation 10625
subject to the tax imposed by section 5733.06 of the Revised 10626
Code, except that the property, payroll, and sales fractions 10627
shall be calculated by including in the numerator and 10628
denominator of the fractions only the property, payroll, and 10629
sales, respectively, directly related to the production of 10630
income or gain from acquisition, ownership, use, maintenance, 10631
management, or disposition of tangible personal property located 10632
in this state at any time during the qualifying trust's 10633
qualifying taxable year or of real property located in this 10634
state. 10635

(C) "Qualifying beneficiary" means any individual that, 10636
during the qualifying taxable year of a qualifying trust, is a 10637
beneficiary of that trust, but does not include an individual 10638
who is a resident taxpayer for the purposes of Chapter 5747. of 10639
the Revised Code for the entire qualifying taxable year of the 10640
qualifying trust. 10641

(D) "Fiscal year" means an accounting period ending on any 10642
day other than the thirty-first day of December. 10643

(E) "Individual" means a natural person.	10644
(F) "Month" means a calendar month.	10645
(G) "Partnership" has the same meaning as in section	10646
5747.01 of the Revised Code <u>"Distributive share" includes the</u>	10647
<u>sum of the income, gain, expense, or loss of a disregarded</u>	10648
<u>entity or qualified subchapter S subsidiary.</u>	10649
(H) "Investor" means any person that, during any portion	10650
of a taxable year of a qualifying pass-through entity, is a	10651
partner, member, shareholder, or investor in that qualifying	10652
pass-through entity.	10653
(I) Except as otherwise provided in section 5733.402 or	10654
5747.401 of the Revised Code, "qualifying investor" means any	10655
investor except those described in divisions (I)(1) to (9) of	10656
this section.	10657
(1) An investor satisfying one of the descriptions under	10658
section 501(a) or (c) of the Internal Revenue Code, a	10659
partnership with equity securities registered with the United	10660
States securities and exchange commission under section 12 of	10661
the "Securities Exchange Act of 1934," as amended, or an	10662
investor described in division (F) of section 3334.01, or	10663
division (A) or (C) of section 5733.09 of the Revised Code for	10664
the entire qualifying taxable year of the qualifying pass-	10665
through entity.	10666
(2) An investor who is either an individual or an estate	10667
and is a resident taxpayer for the purposes of section 5747.01	10668
of the Revised Code for the entire qualifying taxable year of	10669
the qualifying pass-through entity.	10670
(3) An investor who is an individual for whom the	10671
qualifying pass-through entity makes a good faith and reasonable	10672

effort to comply fully and timely with the filing and payment 10673
requirements set forth in division (D) of section 5747.08 of the 10674
Revised Code and section 5747.09 of the Revised Code with 10675
respect to the individual's adjusted qualifying amount for the 10676
entire qualifying taxable year of the qualifying pass-through 10677
entity. 10678

(4) An investor that is another qualifying pass-through 10679
entity having only investors described in division (I) (1), (2), 10680
(3), or (6) of this section during the three-year period 10681
beginning twelve months prior to the first day of the qualifying 10682
taxable year of the qualifying pass-through entity. 10683

(5) An investor that is another pass-through entity having 10684
no investors other than individuals and estates during the 10685
qualifying taxable year of the qualifying pass-through entity in 10686
which it is an investor, and that makes a good faith and 10687
reasonable effort to comply fully and timely with the filing and 10688
payment requirements set forth in division (D) of section 10689
5747.08 of the Revised Code and section 5747.09 of the Revised 10690
Code with respect to investors that are not resident taxpayers 10691
of this state for the purposes of Chapter 5747. of the Revised 10692
Code for the entire qualifying taxable year of the qualifying 10693
pass-through entity in which it is an investor. 10694

(6) An investor that is ~~a financial institution required~~ 10695
~~to calculate the tax in accordance with division (E) of section~~ 10696
~~5733.06 of the Revised Code on the first day of January of the~~ 10697
~~calendar year immediately following the last day of the~~ 10698
~~financial institution's calendar or fiscal year in which ends~~ 10699
~~the taxpayer's taxable year~~ treated as a C corporation for 10700
federal income tax purposes for the entire qualifying taxable 10701
year of the qualifying pass-through entity in which it is an 10702

investor. 10703

(7) An investor other than an individual that satisfies 10704
all the following: 10705

(a) The investor submits a written statement to the 10706
qualifying pass-through entity stating that the investor 10707
irrevocably agrees that the investor has nexus with this state 10708
under the Constitution of the United States and is subject to 10709
and liable for the tax calculated under division (A) or (B) of 10710
section 5733.06 of the Revised Code with respect to the 10711
investor's adjusted qualifying amount for the entire qualifying 10712
taxable year of the qualifying pass-through entity. The 10713
statement is subject to the penalties of perjury, shall be 10714
retained by the qualifying pass-through entity for no fewer than 10715
seven years, and shall be delivered to the tax commissioner upon 10716
request. 10717

(b) The investor makes a good faith and reasonable effort 10718
to comply timely and fully with all the reporting and payment 10719
requirements set forth in Chapter 5733. of the Revised Code with 10720
respect to the investor's adjusted qualifying amount for the 10721
entire qualifying taxable year of the qualifying pass-through 10722
entity. 10723

(c) Neither the investor nor the qualifying pass-through 10724
entity in which it is an investor, before, during, or after the 10725
qualifying pass-through entity's qualifying taxable year, 10726
carries out any transaction or transactions with one or more 10727
related members of the investor or the qualifying pass-through 10728
entity resulting in a reduction or deferral of tax imposed by 10729
Chapter 5733. of the Revised Code with respect to all or any 10730
portion of the investor's adjusted qualifying amount for the 10731
qualifying pass-through entity's taxable year, or that 10732

constitute a sham, lack economic reality, or are part of a 10733
series of transactions the form of which constitutes a step 10734
transaction or transactions or does not reflect the substance of 10735
those transactions. 10736

(8) Any other investor that the tax commissioner may 10737
designate by rule. The tax commissioner may adopt rules 10738
including a rule defining "qualifying investor" or "qualifying 10739
beneficiary" and governing the imposition of the withholding tax 10740
imposed by section 5747.41 of the Revised Code with respect to 10741
an individual who is a resident taxpayer for the purposes of 10742
Chapter 5747. of the Revised Code for only a portion of the 10743
qualifying taxable year of the qualifying entity. 10744

(9) An investor that is a trust or fund the beneficiaries 10745
of which, during the qualifying taxable year of the qualifying 10746
pass-through entity, are limited to the following: 10747

(a) A person that is or may be the beneficiary of a trust 10748
subject to Subchapter D of Chapter 1 of Subtitle A of the 10749
Internal Revenue Code. 10750

(b) A person that is or may be the beneficiary of or the 10751
recipient of payments from a trust or fund that is a nuclear 10752
decommissioning reserve fund, a designated settlement fund, or 10753
any other trust or fund established to resolve and satisfy 10754
claims that may otherwise be asserted by the beneficiary or a 10755
member of the beneficiary's family. Sections 267(c)(4), 468A(e), 10756
and 468B(d)(2) of the Internal Revenue Code apply to the 10757
determination of whether such a person satisfies division (I)(9) 10758
of this section. 10759

(c) A person who is or may be the beneficiary of a trust 10760
that, under its governing instrument, is not required to 10761

distribute all of its income currently. Division (I) (9) (c) of 10762
this section applies only if the trust, prior to the due date 10763
for filing the qualifying pass-through entity's return for taxes 10764
imposed by section 5733.41 and sections 5747.41 to 5747.453 of 10765
the Revised Code, irrevocably agrees in writing that for the 10766
taxable year during or for which the trust distributes any of 10767
its income to any of its beneficiaries, the trust is a 10768
qualifying trust and will pay the estimated tax, and will 10769
withhold and pay the withheld tax, as required under sections 10770
5747.40 to 5747.453 of the Revised Code. 10771

For the purposes of division (I) (9) of this section, a 10772
trust or fund shall be considered to have a beneficiary other 10773
than persons described under divisions (I) (9) (a) to (c) of this 10774
section if a beneficiary would not qualify under those divisions 10775
under the doctrines of "economic reality," "sham transaction," 10776
"step doctrine," or "substance over form." A trust or fund 10777
described in division (I) (9) of this section bears the burden of 10778
establishing by a preponderance of the evidence that any 10779
transaction giving rise to the tax benefits provided under 10780
division (I) (9) of this section does not have as a principal 10781
purpose a claim of those tax benefits. Nothing in this section 10782
shall be construed to limit solely to this section the 10783
application of the doctrines referred to in this paragraph. 10784

(J) "Qualifying net gain" means any recognized net gain 10785
with respect to the acquisition, ownership, use, maintenance, 10786
management, or disposition of tangible personal property located 10787
in this state at any time during a trust's qualifying taxable 10788
year or real property located in this state. 10789

(K) "Qualifying net income" means any recognized income, 10790
net of related deductible expenses, other than distributions 10791

deductions with respect to the acquisition, ownership, use, 10792
maintenance, management, or disposition of tangible personal 10793
property located in this state at any time during the trust's 10794
qualifying taxable year or real property located in this state. 10795

(L) "Qualifying entity" means a qualifying pass-through 10796
entity or a qualifying trust. 10797

(M) "Qualifying trust" means a trust subject to subchapter 10798
J of the Internal Revenue Code that, during any portion of the 10799
trust's qualifying taxable year, has income or gain from the 10800
acquisition, management, ownership, use, or disposition of 10801
tangible personal property located in this state at any time 10802
during the trust's qualifying taxable year or real property 10803
located in this state. "Qualifying trust" does not include a 10804
person described in section 501(c) of the Internal Revenue Code 10805
or a person described in division (C) of section 5733.09 of the 10806
Revised Code. 10807

(N) "Qualifying pass-through entity" means a pass-through 10808
entity as defined in section 5733.04 of the Revised Code, 10809
excluding: a person described in section 501(c) of the Internal 10810
Revenue Code; a partnership with equity securities registered 10811
with the United States securities and exchange commission under 10812
section 12 of the Securities Exchange Act of 1934, as amended; 10813
or a person described in division (C) of section 5733.09 of the 10814
Revised Code. 10815

(O) "Quarter" means the first three months, the second 10816
three months, the third three months, or the last three months 10817
of a qualifying entity's qualifying taxable year. 10818

(P) "Related member" has the same meaning as in division 10819
(A) (6) of section 5733.042 of the Revised Code without regard to 10820

division (B) of that section. However, for the purposes of 10821
divisions (A) (3) and (4) of this section only, "related member" 10822
has the same meaning as in division (A) (6) of section 5733.042 10823
of the Revised Code without regard to division (B) of that 10824
section, but shall be applied by substituting "forty per cent" 10825
for "twenty per cent" wherever "twenty per cent" appears in 10826
division (A) of that section. 10827

(Q) "Return" or "report" means the notifications and 10828
reports required to be filed pursuant to sections 5747.42 to 10829
5747.45 of the Revised Code for the purpose of reporting the tax 10830
imposed under section 5733.41 or 5747.41 of the Revised Code, 10831
and included declarations of estimated tax when so required. 10832

(R) "Qualifying taxable year" means the calendar year or 10833
the qualifying entity's fiscal year ending during the calendar 10834
year, or fractional part thereof, for which the adjusted 10835
qualifying amount is calculated pursuant to sections 5733.40 and 10836
5733.41 or sections 5747.40 to 5747.453 of the Revised Code. 10837

~~(S) "Distributive share" includes the sum of the income, 10838
gain, expense, or loss of a disregarded entity or qualified 10839
subchapter S subsidiary. 10840~~

Sec. 5733.98. (A) To provide a uniform procedure for 10841
calculating the amount of tax imposed by section 5733.06 of the 10842
Revised Code that is due under this chapter, a taxpayer shall 10843
claim any credits to which it is entitled in the following 10844
order, except as otherwise provided in section 5733.058 of the 10845
Revised Code: 10846

~~(1)~~ For tax year 2005, the credit for taxes paid by a 10847
qualifying pass-through entity allowed under section 5733.0611 10848
of the Revised Code; 10849

(2) —The credit allowed for financial institutions under section 5733.45 of the Revised Code;	10850 10851
(3) —The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;	10852 10853
(4) —The subsidiary corporation credit under section 5733.067 of the Revised Code;	10854 10855
(5) —The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	10856 10857
(6) —The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	10858 10859 10860
(7) —The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	10861 10862
(8) —The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	10863 10864
(9) —The nonrefundable job retention credit under division (B) of section 5733.0610 of the Revised Code;	10865 10866
(10) —The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	10867 10868 10869
(11) —The job training credit under section 5733.42 of the Revised Code;	10870 10871
(12) —The credit for qualified research expenses under section 5733.351 of the Revised Code;	10872 10873
(13) —The enterprise zone credit under section 5709.66 of the Revised Code;	10874 10875
(14) —The credit for the eligible costs associated with a	10876

voluntary action under section 5733.34 of the Revised Code;	10877
(15) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	10878 10879
(16) The ethanol plant investment credit under section 5733.46 of the Revised Code;	10880 10881
(17) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	10882 10883
(18) The export sales credit under section 5733.069 of the Revised Code;	10884 10885
(19) The enterprise zone credits under section 5709.65 of the Revised Code;	10886 10887
(20) The credit for using Ohio coal under section 5733.39 of the Revised Code;	10888 10889
(21) The credit for purchases of qualified low-income community investments under section 5733.58 of the Revised Code;	10890 10891
(22) The credit for small telephone companies under section 5733.57 of the Revised Code;	10892 10893
(23) The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	10894 10895
(24) 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;	10896 10897 10898
(25) The research and development credit under section 5733.352 of the Revised Code;	10899 10900
(26) 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;	10901 10902 10903

(27) —The refundable credit for rehabilitating a historic building under section 5733.47 of the Revised Code;	10904 10905
(28) —The refundable jobs creation credit or job retention credit under division (A) of section 5733.0610 of the Revised Code;	10906 10907 10908
(29) —The refundable credit for tax withheld under division (B) (2) of section 5747.062 of the Revised Code;	10909 10910
(30) —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;	10911 10912 10913 10914
(31) —For tax years 2006, 2007, and 2008, the refundable credit allowable under division (B) of section 5733.56 of the Revised Code;	10915 10916 10917
(32) —The refundable motion picture and Broadway theatrical production credit under section 5733.59 of the Revised Code.	10918 10919
(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a tax 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.	10920 10921 10922 10923 10924 10925
Sec. 5735.026. (A) The tax commissioner, for the purposes of administering this chapter, shall issue an exporter license to a person that receives motor fuel in this state and exports that fuel out of this state and that demonstrates to the tax commissioner's satisfaction that the person is an exporter.	10926 10927 10928 10929 10930
(B) To obtain an exporter license, a person shall file,	10931

under oath, an application with the commissioner in such form as 10932
the commissioner prescribes. The application shall set forth the 10933
following information: 10934

(1) The name under which the exporter will transact 10935
business within the state; 10936

(2) The location, including street number address, of the 10937
exporter's principal office or place of business; 10938

(3) The name and address of the owner, or the names and 10939
addresses of the partners if such exporter is a partnership, or 10940
the names and addresses of the principal officers if the 10941
exporter is a corporation or an association; 10942

(4) A certified copy of the certificate or license issued 10943
by the ~~Secretary of State~~ secretary of state showing that the 10944
corporation is authorized to transact business in this state if 10945
the exporter is a corporation organized under the laws of 10946
another state, territory, or country; 10947

(5) For an exporter described in division (DD) (1) of 10948
section 5735.01 of the Revised Code, a copy of the applicant's 10949
license or certificate to collect and remit motor fuel taxes or 10950
sell or distribute motor fuel in the specified destination state 10951
or states for which the license or certificate is to be issued; 10952

(6) Any other information the commissioner may require. 10953

(C) (1) After a hearing as provided in division (C) (2) of 10954
this section, the commissioner may refuse to issue a license to 10955
transact business as an exporter of motor fuel in the following 10956
circumstances: 10957

(a) The applicant has previously had a license issued 10958
under this chapter canceled for cause by the commissioner; 10959

(b) The commissioner believes that an application is not filed in good faith; 10960
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(c) The applicant has previously violated any provision of this chapter; 10962
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(d) The application is filed as a subterfuge by the applicant for the real person in interest who has previously had a license issued under this chapter canceled for cause by the commissioner or who has violated any provision of this chapter. 10964
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(2) The commissioner shall conduct a hearing before refusing to issue a license to transact business as an exporter in any of the circumstances described in division (C) (1) of this section. The applicant shall be given five days' notice, in writing, of the hearing. The applicant may appear in person or be represented by counsel, and may present testimony at the hearing. 10968
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(D) When an application in proper form has been accepted for filing, the commissioner shall issue to such exporter a license to transact business as an exporter of motor fuel in this state, subject to cancellation of such license as provided by law. 10975
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(E) No person shall make a false or fraudulent statement on the application required by this section. 10980
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Sec. 5735.06. (A) On or before the last day of each month, each motor fuel dealer shall file with the tax commissioner a report for the preceding calendar month on a form prescribed by the commissioner for that purpose. The report shall include the following information: 10982
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(1) An itemized statement of the number of gallons of all motor fuel received during the preceding calendar month by such 10987
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motor fuel dealer, which has been produced, refined, prepared, 10989
distilled, manufactured, blended, or compounded by such motor 10990
fuel dealer in the state; 10991

(2) An itemized statement of the number of gallons of all 10992
motor fuel received by such motor fuel dealer in the state from 10993
any source during the preceding calendar month, other than motor 10994
fuel included in division (A)(1) of this section, together with 10995
a statement showing the date of receipt of such motor fuel; the 10996
name of the person from whom purchased or received; the date of 10997
receipt of each shipment of motor fuel; the point of origin and 10998
the point of destination of each shipment; the quantity of each 10999
of said purchases or shipments; the name of the carrier; the 11000
number of gallons contained in each car if shipped by rail; the 11001
point of origin, destination, and shipper if shipped by pipe 11002
line; or the name and owner of the boat, barge, or vessel if 11003
shipped by water; 11004

(3) An itemized statement of the number of gallons of 11005
motor fuel which such motor fuel dealer has during the preceding 11006
calendar month: 11007

(a) For motor fuel other than gasoline sold for use other 11008
than for operating motor vehicles on the public highways or on 11009
waters within the boundaries of this state; 11010

(b) Exported from this state to any other state or foreign 11011
country as provided in division (A)(4) of section 5735.05 of the 11012
Revised Code; 11013

(c) Sold to the United States government or any of its 11014
agencies; 11015

(d) Sold for delivery to motor fuel dealers; 11016

(e) Sold exclusively for use in the operation of aircraft; 11017

(4) Such other information incidental to the enforcement 11018
of the motor fuel laws of the state as the commissioner 11019
requires. 11020

(B) The report shall show the tax due, computed as 11021
follows: 11022

(1) The following deductions shall be made from the total 11023
number of gallons of motor fuel received by the motor fuel 11024
dealer within the state during the preceding calendar month: 11025

(a) The total number of gallons of motor fuel received by 11026
the motor fuel dealer within the state and sold or otherwise 11027
disposed of during the preceding calendar month as set forth in 11028
section 5735.05 of the Revised Code; 11029

(b) The total number of gallons received during the 11030
preceding calendar month and sold or otherwise disposed of to 11031
another licensed motor fuel dealer pursuant to section 5735.05 11032
of the Revised Code; 11033

(c) To cover the costs of the motor fuel dealer in 11034
compiling the report, and evaporation, shrinkage, or other 11035
unaccounted-for losses: 11036

(i) If the report is timely filed and the tax is timely 11037
paid, three per cent of the total number of gallons of motor 11038
fuel received by the motor fuel dealer within the state during 11039
the preceding calendar month less the total number of gallons 11040
deducted under divisions (B) (1) (a) and (b) of this section, less 11041
one per cent of the total number of gallons of motor fuel that 11042
were sold to a retail dealer during the preceding calendar 11043
month; 11044

(ii) If the report required by division (A) of this 11045
section is not timely filed and the tax is not timely paid, no 11046

deduction shall be allowed; 11047

(iii) If the report is incomplete, no deduction shall be 11048
allowed for any fuel on which the tax is not timely reported and 11049
paid; 11050

(2) The number of gallons remaining after the deductions 11051
have been made shall be multiplied ~~separately by each of the~~ 11052
~~following amounts:~~ 11053

~~(a) The cents per gallon rate;~~ 11054

~~(b) Two cents.~~ 11055

~~The sum of the products prescribed by section 5735.05 of~~ 11056
~~the Revised Code. The product obtained in divisions (B) (2) (a)~~ 11057
~~and (b) of this section shall be the amount of motor fuel tax~~ 11058
for the preceding calendar month. 11059

(C) The report shall be filed together with payment of the 11060
tax shown on the report to be due. The commissioner may extend 11061
the time for filing reports and may remit all or part of 11062
penalties which may become due under sections 5735.01 to 5735.99 11063
of the Revised Code. For purposes of this section and sections 11064
5735.062 and 5735.12 of the Revised Code, a report required to 11065
be filed under this section and payment of the tax due under 11066
this chapter are considered filed when received by the tax 11067
commissioner. 11068

(D) The tax commissioner may require a motor fuel dealer 11069
to file a report for a period other than one month. Such a 11070
report, together with payment of the tax, shall be filed not 11071
later than thirty days after the last day of the prescribed 11072
reporting period. 11073

(E) No person required by this section to file a tax 11074

report shall file a false or fraudulent tax report or supporting schedule. 11075
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Sec. 5739.01. As used in this chapter: 11077

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form. 11078
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(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever: 11083
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(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted; 11087
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(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests; 11091
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(3) All transactions by which: 11093

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code; 11094
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(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or 11098
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distribution system for the delivery of a public utility	11103
service;	11104
(c) The service of washing, cleaning, waxing, polishing,	11105
or painting a motor vehicle is or is to be furnished;	11106
(d) Until August 1, 2003, industrial laundry cleaning	11107
services are or are to be provided and, on and after August 1,	11108
2003, laundry <u>Laundry</u> and dry cleaning services are or are to be	11109
provided;	11110
(e) Automatic data processing, computer services, or	11111
electronic information services are or are to be provided for	11112
use in business when the true object of the transaction is the	11113
receipt by the consumer of automatic data processing, computer	11114
services, or electronic information services rather than the	11115
receipt of personal or professional services to which automatic	11116
data processing, computer services, or electronic information	11117
services are incidental or supplemental. Notwithstanding any	11118
other provision of this chapter, such transactions that occur	11119
between members of an affiliated group are not sales. An	11120
"affiliated group" means two or more persons related in such a	11121
way that one person owns or controls the business operation of	11122
another member of the group. In the case of corporations with	11123
stock, one corporation owns or controls another if it owns more	11124
than fifty per cent of the other corporation's common stock with	11125
voting rights.	11126
(f) Telecommunications service, including prepaid calling	11127
service, prepaid wireless calling service, or ancillary service,	11128
is or is to be provided, but not including coin-operated	11129
telephone service;	11130
(g) Landscaping and lawn care service is or is to be	11131

provided;	11132
(h) Private investigation and security service is or is to be provided;	11133 11134
(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;	11135 11136
(j) Building maintenance and janitorial service is or is to be provided;	11137 11138
(k) Employment service is or is to be provided;	11139
(l) Employment placement service is or is to be provided;	11140
(m) Exterminating service is or is to be provided;	11141
(n) Physical fitness facility service is or is to be provided;	11142 11143
(o) Recreation and sports club service is or is to be provided;	11144 11145
(p) On and after August 1, 2003, satellite <u>Satellite</u> broadcasting service is or is to be provided;	11146 11147
(q) On and after August 1, 2003, personal <u>Personal</u> care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.	11148 11149 11150 11151 11152 11153 11154 11155 11156
(r) On and after August 1, 2003, the <u>The</u> transportation of persons by motor vehicle or aircraft is or is to be provided,	11157 11158

when the transportation is entirely within this state, except 11159
for transportation provided by an ambulance service, by a 11160
transit bus, as defined in section 5735.01 of the Revised Code, 11161
and transportation provided by a citizen of the United States 11162
holding a certificate of public convenience and necessity issued 11163
under 49 U.S.C. 41102; 11164

(s) ~~On and after August 1, 2003, motor~~ Motor vehicle 11165
towing service is or is to be provided. As used in this 11166
division, "motor vehicle towing service" means the towing or 11167
conveyance of a wrecked, disabled, or illegally parked motor 11168
vehicle. 11169

(t) ~~On and after August 1, 2003, snow~~ Snow removal service 11170
is or is to be provided. As used in this division, "snow removal 11171
service" means the removal of snow by any mechanized means, but 11172
does not include the providing of such service by a person that 11173
has less than five thousand dollars in sales of such service 11174
during the calendar year. 11175

(u) Electronic publishing service is or is to be provided 11176
to a consumer for use in business, except that such transactions 11177
occurring between members of an affiliated group, as defined in 11178
division (B) (3) (e) of this section, are not sales. 11179

(4) All transactions by which printed, imprinted, 11180
overprinted, lithographic, multilithic, blueprinted, 11181
photostatic, or other productions or reproductions of written or 11182
graphic matter are or are to be furnished or transferred; 11183

(5) The production or fabrication of tangible personal 11184
property for a consideration for consumers who furnish either 11185
directly or indirectly the materials used in the production of 11186
fabrication work; and include the furnishing, preparing, or 11187

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serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

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As used in division (B) (5) of this section:

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(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

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(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

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(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, or an ownership

interest in a pass-through entity, as defined in section 5733.04 11218
of the Revised Code, is transferred, if the corporation or pass- 11219
through entity is not engaging in business and its entire assets 11220
consist of boats, planes, motor vehicles, or other tangible 11221
personal property operated primarily for the use and enjoyment 11222
of the shareholders or owners; 11223

(7) All transactions in which a warranty, maintenance or 11224
service contract, or similar agreement by which the vendor of 11225
the warranty, contract, or agreement agrees to repair or 11226
maintain the tangible personal property of the consumer is or is 11227
to be provided; 11228

(8) The transfer of copyrighted motion picture films used 11229
solely for advertising purposes, except that the transfer of 11230
such films for exhibition purposes is not a sale; 11231

(9) ~~On and after August 1, 2003, all~~ All transactions by 11232
which tangible personal property is or is to be stored, except 11233
such property that the consumer of the storage holds for sale in 11234
the regular course of business; 11235

(10) All transactions in which "guaranteed auto 11236
protection" is provided whereby a person promises to pay to the 11237
consumer the difference between the amount the consumer receives 11238
from motor vehicle insurance and the amount the consumer owes to 11239
a person holding title to or a lien on the consumer's motor 11240
vehicle in the event the consumer's motor vehicle suffers a 11241
total loss under the terms of the motor vehicle insurance policy 11242
or is stolen and not recovered, if the protection and its price 11243
are included in the purchase or lease agreement; 11244

(11) (a) Except as provided in division (B) (11) (b) of this 11245
section, ~~on and after October 1, 2009,~~ all transactions by which 11246

health care services are paid for, reimbursed, provided, 11247
delivered, arranged for, or otherwise made available by a 11248
medicaid health insuring corporation pursuant to the 11249
corporation's contract with the state. 11250

(b) If the centers for medicare and medicaid services of 11251
the United States department of health and human services 11252
determines that the taxation of transactions described in 11253
division (B) (11) (a) of this section constitutes an impermissible 11254
health care-related tax under the "Social Security Act," section 11255
1903(w), 42 U.S.C. 1396b(w), and regulations adopted thereunder, 11256
the medicaid director shall notify the tax commissioner of that 11257
determination. Beginning with the first day of the month 11258
following that notification, the transactions described in 11259
division (B) (11) (a) of this section are not sales for the 11260
purposes of this chapter or Chapter 5741. of the Revised Code. 11261
The tax commissioner shall order that the collection of taxes 11262
under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 11263
5741.021, 5741.022, and 5741.023 of the Revised Code shall cease 11264
for transactions occurring on or after that date. 11265

(12) All transactions by which a specified digital product 11266
is provided for permanent use or less than permanent use, 11267
regardless of whether continued payment is required. 11268

Except as provided in this section, "sale" and "selling" 11269
do not include transfers of interest in leased property where 11270
the original lessee and the terms of the original lease 11271
agreement remain unchanged, or professional, insurance, or 11272
personal service transactions that involve the transfer of 11273
tangible personal property as an inconsequential element, for 11274
which no separate charges are made. 11275

(C) "Vendor" means the person providing the service or by 11276

whom the transfer effected or license given by a sale is or is 11277
to be made or given and, for sales described in division (B) (3) 11278
(i) of this section, the telecommunications service vendor that 11279
provides the nine hundred telephone service; if two or more 11280
persons are engaged in business at the same place of business 11281
under a single trade name in which all collections on account of 11282
sales by each are made, such persons shall constitute a single 11283
vendor. 11284

Physicians, dentists, hospitals, and veterinarians who are 11285
engaged in selling tangible personal property as received from 11286
others, such as eyeglasses, mouthwashes, dentifrices, or similar 11287
articles, are vendors. Veterinarians who are engaged in 11288
transferring to others for a consideration drugs, the dispensing 11289
of which does not require an order of a licensed veterinarian or 11290
physician under federal law, are vendors. 11291

The operator of any peer-to-peer car sharing program shall 11292
be considered to be the vendor. 11293

(D) (1) "Consumer" means the person for whom the service is 11294
provided, to whom the transfer effected or license given by a 11295
sale is or is to be made or given, to whom the service described 11296
in division (B) (3) (f) or (i) of this section is charged, or to 11297
whom the admission is granted. 11298

(2) Physicians, dentists, hospitals, and blood banks 11299
operated by nonprofit institutions and persons licensed to 11300
practice veterinary medicine, surgery, and dentistry are 11301
consumers of all tangible personal property and services 11302
purchased by them in connection with the practice of medicine, 11303
dentistry, the rendition of hospital or blood bank service, or 11304
the practice of veterinary medicine, surgery, and dentistry. In 11305
addition to being consumers of drugs administered by them or by 11306

their assistants according to their direction, veterinarians 11307
also are consumers of drugs that under federal law may be 11308
dispensed only by or upon the order of a licensed veterinarian 11309
or physician, when transferred by them to others for a 11310
consideration to provide treatment to animals as directed by the 11311
veterinarian. 11312

(3) A person who performs a facility management, or 11313
similar service contract for a contractee is a consumer of all 11314
tangible personal property and services purchased for use in 11315
connection with the performance of such contract, regardless of 11316
whether title to any such property vests in the contractee. The 11317
purchase of such property and services is not subject to the 11318
exception for resale under division (E) of this section. 11319

(4) (a) In the case of a person who purchases printed 11320
matter for the purpose of distributing it or having it 11321
distributed to the public or to a designated segment of the 11322
public, free of charge, that person is the consumer of that 11323
printed matter, and the purchase of that printed matter for that 11324
purpose is a sale. 11325

(b) In the case of a person who produces, rather than 11326
purchases, printed matter for the purpose of distributing it or 11327
having it distributed to the public or to a designated segment 11328
of the public, free of charge, that person is the consumer of 11329
all tangible personal property and services purchased for use or 11330
consumption in the production of that printed matter. That 11331
person is not entitled to claim exemption under division (B) (42) 11332
(f) of section 5739.02 of the Revised Code for any material 11333
incorporated into the printed matter or any equipment, supplies, 11334
or services primarily used to produce the printed matter. 11335

(c) The distribution of printed matter to the public or to 11336

a designated segment of the public, free of charge, is not a 11337
sale to the members of the public to whom the printed matter is 11338
distributed or to any persons who purchase space in the printed 11339
matter for advertising or other purposes. 11340

(5) A person who makes sales of any of the services listed 11341
in division (B)(3) of this section is the consumer of any 11342
tangible personal property used in performing the service. The 11343
purchase of that property is not subject to the resale exception 11344
under division (E) of this section. 11345

(6) A person who engages in highway transportation for 11346
hire is the consumer of all packaging materials purchased by 11347
that person and used in performing the service, except for 11348
packaging materials sold by such person in a transaction 11349
separate from the service. 11350

(7) In the case of a transaction for health care services 11351
under division (B)(11) of this section, a medicaid health 11352
insuring corporation is the consumer of such services. The 11353
purchase of such services by a medicaid health insuring 11354
corporation is not subject to the exception for resale under 11355
division (E) of this section or to the exemptions provided under 11356
divisions (B)(12), (18), (19), and (22) of section 5739.02 of 11357
the Revised Code. 11358

(E) "Retail sale" and "sales at retail" include all sales, 11359
except those in which the purpose of the consumer is to resell 11360
the thing transferred or benefit of the service provided, by a 11361
person engaging in business, in the form in which the same is, 11362
or is to be, received by the person. 11363

(F) "Business" includes any activity engaged in by any 11364
person with the object of gain, benefit, or advantage, either 11365

direct or indirect. "Business" does not include the activity of 11366
a person in managing and investing the person's own funds. 11367

(G) "Engaging in business" means commencing, conducting, 11368
or continuing in business, and liquidating a business when the 11369
liquidator thereof holds itself out to the public as conducting 11370
such business. Making a casual sale is not engaging in business. 11371

(H) (1) (a) "Price," except as provided in divisions (H) (2), 11372
(3), and (4) of this section, means the total amount of 11373
consideration, including cash, credit, property, and services, 11374
for which tangible personal property or services are sold, 11375
leased, or rented, valued in money, whether received in money or 11376
otherwise, without any deduction for any of the following: 11377

(i) The vendor's cost of the property sold; 11378

(ii) The cost of materials used, labor or service costs, 11379
interest, losses, all costs of transportation to the vendor, all 11380
taxes imposed on the vendor, including the tax imposed under 11381
Chapter 5751. of the Revised Code, and any other expense of the 11382
vendor; 11383

(iii) Charges by the vendor for any services necessary to 11384
complete the sale; 11385

(iv) ~~On and after August 1, 2003, delivery~~ Delivery 11386
charges. As used in this division, "delivery charges" means 11387
charges by the vendor for preparation and delivery to a location 11388
designated by the consumer of tangible personal property or a 11389
service, including transportation, shipping, postage, handling, 11390
crating, and packing. 11391

(v) Installation charges; 11392

(vi) Credit for any trade-in. 11393

(b) "Price" includes consideration received by the vendor 11394
from a third party, if the vendor actually receives the 11395
consideration from a party other than the consumer, and the 11396
consideration is directly related to a price reduction or 11397
discount on the sale; the vendor has an obligation to pass the 11398
price reduction or discount through to the consumer; the amount 11399
of the consideration attributable to the sale is fixed and 11400
determinable by the vendor at the time of the sale of the item 11401
to the consumer; and one of the following criteria is met: 11402

(i) The consumer presents a coupon, certificate, or other 11403
document to the vendor to claim a price reduction or discount 11404
where the coupon, certificate, or document is authorized, 11405
distributed, or granted by a third party with the understanding 11406
that the third party will reimburse any vendor to whom the 11407
coupon, certificate, or document is presented; 11408

(ii) The consumer identifies the consumer's self to the 11409
seller as a member of a group or organization entitled to a 11410
price reduction or discount. A preferred customer card that is 11411
available to any patron does not constitute membership in such a 11412
group or organization. 11413

(iii) The price reduction or discount is identified as a 11414
third party price reduction or discount on the invoice received 11415
by the consumer, or on a coupon, certificate, or other document 11416
presented by the consumer. 11417

(c) "Price" does not include any of the following: 11418

(i) Discounts, including cash, term, or coupons that are 11419
not reimbursed by a third party that are allowed by a vendor and 11420
taken by a consumer on a sale; 11421

(ii) Interest, financing, and carrying charges from credit 11422

extended on the sale of tangible personal property or services, 11423
if the amount is separately stated on the invoice, bill of sale, 11424
or similar document given to the purchaser; 11425

(iii) Any taxes legally imposed directly on the consumer 11426
that are separately stated on the invoice, bill of sale, or 11427
similar document given to the consumer. For the purpose of this 11428
division, the tax imposed under Chapter 5751. of the Revised 11429
Code is not a tax directly on the consumer, even if the tax or a 11430
portion thereof is separately stated. 11431

(iv) Notwithstanding divisions (H) (1) (b) (i) to (iii) of 11432
this section, any discount allowed by an automobile manufacturer 11433
to its employee, or to the employee of a supplier, on the 11434
purchase of a new motor vehicle from a new motor vehicle dealer 11435
in this state. 11436

(v) The dollar value of a gift card that is not sold by a 11437
vendor or purchased by a consumer and that is redeemed by the 11438
consumer in purchasing tangible personal property or services if 11439
the vendor is not reimbursed and does not receive compensation 11440
from a third party to cover all or part of the gift card value. 11441
For the purposes of this division, a gift card is not sold by a 11442
vendor or purchased by a consumer if it is distributed pursuant 11443
to an awards, loyalty, or promotional program. Past and present 11444
purchases of tangible personal property or services by the 11445
consumer shall not be treated as consideration exchanged for a 11446
gift card. 11447

(2) In the case of a sale of any new motor vehicle by a 11448
new motor vehicle dealer, as defined in section 4517.01 of the 11449
Revised Code, in which another motor vehicle is accepted by the 11450
dealer as part of the consideration received, "price" has the 11451
same meaning as in division (H) (1) of this section, reduced by 11452

the credit afforded the consumer by the dealer for the motor 11453
vehicle received in trade. 11454

(3) In the case of a sale of any watercraft or outboard 11455
motor by a watercraft dealer licensed in accordance with section 11456
1547.543 of the Revised Code, in which another watercraft, 11457
watercraft and trailer, or outboard motor is accepted by the 11458
dealer as part of the consideration received, "price" has the 11459
same meaning as in division (H) (1) of this section, reduced by 11460
the credit afforded the consumer by the dealer for the 11461
watercraft, watercraft and trailer, or outboard motor received 11462
in trade. As used in this division, "watercraft" includes an 11463
outdrive unit attached to the watercraft. 11464

(4) In the case of transactions for health care services 11465
under division (B) (11) of this section, "price" means the amount 11466
of managed care premiums received each month by a medicaid 11467
health insuring corporation. 11468

(I) "Receipts" means the total amount of the prices of the 11469
sales of vendors, provided that the dollar value of gift cards 11470
distributed pursuant to an awards, loyalty, or promotional 11471
program, and cash discounts allowed and taken on sales at the 11472
time they are consummated are not included, minus any amount 11473
deducted as a bad debt pursuant to section 5739.121 of the 11474
Revised Code. "Receipts" does not include the sale price of 11475
property returned or services rejected by consumers when the 11476
full sale price and tax are refunded either in cash or by 11477
credit. 11478

(J) "Place of business" means any location at which a 11479
person engages in business. 11480

(K) "Premises" includes any real property or portion 11481

thereof upon which any person engages in selling tangible 11482
personal property at retail or making retail sales and also 11483
includes any real property or portion thereof designated for, or 11484
devoted to, use in conjunction with the business engaged in by 11485
such person. 11486

(L) "Casual sale" means a sale of an item of tangible 11487
personal property that was obtained by the person making the 11488
sale, through purchase or otherwise, for the person's own use 11489
and was previously subject to any state's taxing jurisdiction on 11490
its sale or use, and includes such items acquired for the 11491
seller's use that are sold by an auctioneer employed directly by 11492
the person for such purpose, provided the location of such sales 11493
is not the auctioneer's permanent place of business. As used in 11494
this division, "permanent place of business" includes any 11495
location where such auctioneer has conducted more than two 11496
auctions during the year. 11497

(M) "Hotel" means every establishment kept, used, 11498
maintained, advertised, or held out to the public to be a place 11499
where sleeping accommodations are offered to guests, in which 11500
five or more rooms are used for the accommodation of such 11501
guests, whether the rooms are in one or several structures, 11502
except as otherwise provided in ~~division (G) of section 5739.09-~~ 11503
5739.091 of the Revised Code. 11504

(N) "Transient guests" means persons occupying a room or 11505
rooms for sleeping accommodations for less than thirty 11506
consecutive days. 11507

(O) "Making retail sales" means the effecting of 11508
transactions wherein one party is obligated to pay the price and 11509
the other party is obligated to provide a service or to transfer 11510
title to or possession of the item sold. "Making retail sales" 11511

does not include the preliminary acts of promoting or soliciting 11512
the retail sales, other than the distribution of printed matter 11513
which displays or describes and prices the item offered for 11514
sale, nor does it include delivery of a predetermined quantity 11515
of tangible personal property or transportation of property or 11516
personnel to or from a place where a service is performed. 11517

(P) "Used directly in the rendition of a public utility 11518
service" means that property that is to be incorporated into and 11519
will become a part of the consumer's production, transmission, 11520
transportation, or distribution system and that retains its 11521
classification as tangible personal property after such 11522
incorporation; fuel or power used in the production, 11523
transmission, transportation, or distribution system; and 11524
tangible personal property used in the repair and maintenance of 11525
the production, transmission, transportation, or distribution 11526
system, including only such motor vehicles as are specially 11527
designed and equipped for such use. Tangible personal property 11528
and services used primarily in providing highway transportation 11529
for hire are not used directly in the rendition of a public 11530
utility service. In this definition, "public utility" includes a 11531
citizen of the United States holding, and required to hold, a 11532
certificate of public convenience and necessity issued under 49 11533
U.S.C. 41102. 11534

(Q) "Refining" means removing or separating a desirable 11535
product from raw or contaminated materials by distillation or 11536
physical, mechanical, or chemical processes. 11537

(R) "Assembly" and "assembling" mean attaching or fitting 11538
together parts to form a product, but do not include packaging a 11539
product. 11540

(S) "Manufacturing operation" means a process in which 11541

materials are changed, converted, or transformed into a 11542
different state or form from which they previously existed and 11543
includes refining materials, assembling parts, and preparing raw 11544
materials and parts by mixing, measuring, blending, or otherwise 11545
committing such materials or parts to the manufacturing process. 11546
"Manufacturing operation" does not include packaging. 11547

(T) "Fiscal officer" means, with respect to a regional 11548
transit authority, the secretary-treasurer thereof, and with 11549
respect to a county that is a transit authority, the fiscal 11550
officer of the county transit board if one is appointed pursuant 11551
to section 306.03 of the Revised Code or the county auditor if 11552
the board of county commissioners operates the county transit 11553
system. 11554

(U) "Transit authority" means a regional transit authority 11555
created pursuant to section 306.31 of the Revised Code or a 11556
county in which a county transit system is created pursuant to 11557
section 306.01 of the Revised Code. For the purposes of this 11558
chapter, a transit authority must extend to at least the entire 11559
area of a single county. A transit authority that includes 11560
territory in more than one county must include all the area of 11561
the most populous county that is a part of such transit 11562
authority. County population shall be measured by the most 11563
recent census taken by the United States census bureau. 11564

(V) "Legislative authority" means, with respect to a 11565
regional transit authority, the board of trustees thereof, and 11566
with respect to a county that is a transit authority, the board 11567
of county commissioners. 11568

(W) "Territory of the transit authority" means all of the 11569
area included within the territorial boundaries of a transit 11570
authority as they from time to time exist. Such territorial 11571

boundaries must at all times include all the area of a single 11572
county or all the area of the most populous county that is a 11573
part of such transit authority. County population shall be 11574
measured by the most recent census taken by the United States 11575
census bureau. 11576

(X) "Providing a service" means providing or furnishing 11577
anything described in division (B) (3) of this section for 11578
consideration. 11579

(Y) (1) (a) "Automatic data processing" means processing of 11580
others' data, including keypunching or similar data entry 11581
services together with verification thereof, or providing access 11582
to computer equipment for the purpose of processing data. 11583

(b) "Computer services" means providing services 11584
consisting of specifying computer hardware configurations and 11585
evaluating technical processing characteristics, computer 11586
programming, and training of computer programmers and operators, 11587
provided in conjunction with and to support the sale, lease, or 11588
operation of taxable computer equipment or systems. 11589

(c) "Electronic information services" means providing 11590
access to computer equipment by means of telecommunications 11591
equipment for the purpose of either of the following: 11592

(i) Examining or acquiring data stored in or accessible to 11593
the computer equipment; 11594

(ii) Placing data into the computer equipment to be 11595
retrieved by designated recipients with access to the computer 11596
equipment. 11597

~~For transactions occurring on or after the effective date~~ 11598
~~of the amendment of this section by H.B. 157 of the 127th~~ 11599
~~general assembly, December 21, 2007, "electronic" Electronic~~ 11600

information services" does not include electronic publishing. 11601

(d) "Automatic data processing, computer services, or 11602
electronic information services" shall not include personal or 11603
professional services. 11604

(2) As used in divisions (B) (3) (e) and (Y) (1) of this 11605
section, "personal and professional services" means all services 11606
other than automatic data processing, computer services, or 11607
electronic information services, including but not limited to: 11608

(a) Accounting and legal services such as advice on tax 11609
matters, asset management, budgetary matters, quality control, 11610
information security, and auditing and any other situation where 11611
the service provider receives data or information and studies, 11612
alters, analyzes, interprets, or adjusts such material; 11613

(b) Analyzing business policies and procedures; 11614

(c) Identifying management information needs; 11615

(d) Feasibility studies, including economic and technical 11616
analysis of existing or potential computer hardware or software 11617
needs and alternatives; 11618

(e) Designing policies, procedures, and custom software 11619
for collecting business information, and determining how data 11620
should be summarized, sequenced, formatted, processed, 11621
controlled, and reported so that it will be meaningful to 11622
management; 11623

(f) Developing policies and procedures that document how 11624
business events and transactions are to be authorized, executed, 11625
and controlled; 11626

(g) Testing of business procedures; 11627

(h) Training personnel in business procedure applications;	11628
(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;	11629 11630 11631 11632 11633 11634 11635
(j) Providing debt collection services by any oral, written, graphic, or electronic means;	11636 11637
(k) Providing digital advertising services.	11638
The services listed in divisions (Y) (2) (a) to (k) of this section are not automatic data processing or computer services.	11639 11640
(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:	11641 11642 11643
(1) The holder of a permit or certificate issued by this 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;	11644 11645 11646 11647 11648
(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;	11649 11650 11651 11652 11653 11654 11655

(3) A person who leases a motor vehicle to and operates it 11656
for a person described by division (Z)(1) or (2) of this 11657
section. 11658

(AA)(1) "Telecommunications service" means the electronic 11659
transmission, conveyance, or routing of voice, data, audio, 11660
video, or any other information or signals to a point, or 11661
between or among points. "Telecommunications service" includes 11662
such transmission, conveyance, or routing in which computer 11663
processing applications are used to act on the form, code, or 11664
protocol of the content for purposes of transmission, 11665
conveyance, or routing without regard to whether the service is 11666
referred to as voice-over internet protocol service or is 11667
classified by the federal communications commission as enhanced 11668
or value-added. "Telecommunications service" does not include 11669
any of the following: 11670

(a) Data processing and information services that allow 11671
data to be generated, acquired, stored, processed, or retrieved 11672
and delivered by an electronic transmission to a consumer where 11673
the consumer's primary purpose for the underlying transaction is 11674
the processed data or information; 11675

(b) Installation or maintenance of wiring or equipment on 11676
a customer's premises; 11677

(c) Tangible personal property; 11678

(d) Advertising, including directory advertising; 11679

(e) Billing and collection services provided to third 11680
parties; 11681

(f) Internet access service; 11682

(g) Radio and television audio and video programming 11683

services, regardless of the medium, including the furnishing of 11684
transmission, conveyance, and routing of such services by the 11685
programming service provider. Radio and television audio and 11686
video programming services include, but are not limited to, 11687
cable service, as defined in 47 U.S.C. 522(6), and audio and 11688
video programming services delivered by commercial mobile radio 11689
service providers, as defined in 47 C.F.R. 20.3; 11690

(h) Ancillary service; 11691

(i) Digital products delivered electronically, including 11692
software, music, video, reading materials, or ring tones. 11693

(2) "Ancillary service" means a service that is associated 11694
with or incidental to the provision of telecommunications 11695
service, including conference bridging service, detailed 11696
telecommunications billing service, directory assistance, 11697
vertical service, and voice mail service. As used in this 11698
division: 11699

(a) "Conference bridging service" means an ancillary 11700
service that links two or more participants of an audio or video 11701
conference call, including providing a telephone number. 11702
"Conference bridging service" does not include 11703
telecommunications services used to reach the conference bridge. 11704

(b) "Detailed telecommunications billing service" means an 11705
ancillary service of separately stating information pertaining 11706
to individual calls on a customer's billing statement. 11707

(c) "Directory assistance" means an ancillary service of 11708
providing telephone number or address information. 11709

(d) "Vertical service" means an ancillary service that is 11710
offered in connection with one or more telecommunications 11711
services, which offers advanced calling features that allow 11712

customers to identify callers and manage multiple calls and call connections, including conference bridging service. 11713
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 11715
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900 service" and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 11720
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(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount. 11730
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(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in 11737
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predetermined units or dollars of which the number declines with 11743
use in a known amount. 11744

(6) "Value-added non-voice data service" means a 11745
telecommunications service in which computer processing 11746
applications are used to act on the form, content, code, or 11747
protocol of the information or data primarily for a purpose 11748
other than transmission, conveyance, or routing. 11749

(7) "Coin-operated telephone service" means a 11750
telecommunications service paid for by inserting money into a 11751
telephone accepting direct deposits of money to operate. 11752

(8) "Customer" has the same meaning as in section 5739.034 11753
of the Revised Code. 11754

(BB) "Laundry and dry cleaning services" means removing 11755
soil or dirt from towels, linens, articles of clothing, or other 11756
fabric items that belong to others and supplying towels, linens, 11757
articles of clothing, or other fabric items. "Laundry and dry 11758
cleaning services" does not include the provision of self- 11759
service facilities for use by consumers to remove soil or dirt 11760
from towels, linens, articles of clothing, or other fabric 11761
items. 11762

(CC) "Magazines distributed as controlled circulation 11763
publications" means magazines containing at least twenty-four 11764
pages, at least twenty-five per cent editorial content, issued 11765
at regular intervals four or more times a year, and circulated 11766
without charge to the recipient, provided that such magazines 11767
are not owned or controlled by individuals or business concerns 11768
which conduct such publications as an auxiliary to, and 11769
essentially for the advancement of the main business or calling 11770
of, those who own or control them. 11771

(DD) "Landscaping and lawn care service" means the 11772
services of planting, seeding, sodding, removing, cutting, 11773
trimming, pruning, mulching, aerating, applying chemicals, 11774
watering, fertilizing, and providing similar services to 11775
establish, promote, or control the growth of trees, shrubs, 11776
flowers, grass, ground cover, and other flora, or otherwise 11777
maintaining a lawn or landscape grown or maintained by the owner 11778
for ornamentation or other nonagricultural purpose. However, 11779
"landscaping and lawn care service" does not include the 11780
providing of such services by a person who has less than five 11781
thousand dollars in sales of such services during the calendar 11782
year. 11783

(EE) "Private investigation and security service" means 11784
the performance of any activity for which the provider of such 11785
service is required to be licensed pursuant to Chapter 4749. of 11786
the Revised Code, or would be required to be so licensed in 11787
performing such services in this state, and also includes the 11788
services of conducting polygraph examinations and of monitoring 11789
or overseeing the activities on or in, or the condition of, the 11790
consumer's home, business, or other facility by means of 11791
electronic or similar monitoring devices. "Private investigation 11792
and security service" does not include special duty services 11793
provided by off-duty police officers, deputy sheriffs, and other 11794
peace officers regularly employed by the state or a political 11795
subdivision. 11796

(FF) "Information services" means providing conversation, 11797
giving consultation or advice, playing or making a voice or 11798
other recording, making or keeping a record of the number of 11799
callers, and any other service provided to a consumer by means 11800
of a nine hundred telephone call, except when the nine hundred 11801
telephone call is the means by which the consumer makes a 11802

contribution to a recognized charity. 11803

(GG) "Research and development" means designing, creating, 11804
or formulating new or enhanced products, equipment, or 11805
manufacturing processes, and also means conducting scientific or 11806
technological inquiry and experimentation in the physical 11807
sciences with the goal of increasing scientific knowledge which 11808
may reveal the bases for new or enhanced products, equipment, or 11809
manufacturing processes. 11810

(HH) "Qualified research and development equipment" means 11811
capitalized tangible personal property, and leased personal 11812
property that would be capitalized if purchased, used by a 11813
person primarily to perform research and development. Tangible 11814
personal property primarily used in testing, as defined in 11815
division (A) (4) of section 5739.011 of the Revised Code, or used 11816
for recording or storing test results, is not qualified research 11817
and development equipment unless such property is primarily used 11818
by the consumer in testing the product, equipment, or 11819
manufacturing process being created, designed, or formulated by 11820
the consumer in the research and development activity or in 11821
recording or storing such test results. 11822

(II) "Building maintenance and janitorial service" means 11823
cleaning the interior or exterior of a building and any tangible 11824
personal property located therein or thereon, including any 11825
services incidental to such cleaning for which no separate 11826
charge is made. However, "building maintenance and janitorial 11827
service" does not include the providing of such service by a 11828
person who has less than five thousand dollars in sales of such 11829
service during the calendar year. As used in this division, 11830
"cleaning" does not include sanitation services necessary for an 11831
establishment described in 21 U.S.C. 608 to comply with rules 11832

and regulations adopted pursuant to that section. 11833

(JJ) "Employment service" means providing or supplying 11834
personnel, on a temporary or long-term basis, to perform work or 11835
labor under the supervision or control of another, when the 11836
personnel so provided or supplied receive their wages, salary, 11837
or other compensation from the provider or supplier of the 11838
employment service or from a third party that provided or 11839
supplied the personnel to the provider or supplier. "Employment 11840
service" does not include: 11841

(1) Acting as a contractor or subcontractor, where the 11842
personnel performing the work are not under the direct control 11843
of the purchaser. 11844

(2) Medical and health care services. 11845

(3) Supplying personnel to a purchaser pursuant to a 11846
contract of at least one year between the service provider and 11847
the purchaser that specifies that each employee covered under 11848
the contract is assigned to the purchaser on a permanent basis. 11849

(4) Transactions between members of an affiliated group, 11850
as defined in division (B) (3) (e) of this section. 11851

(5) Transactions where the personnel so provided or 11852
supplied by a provider or supplier to a purchaser of an 11853
employment service are then provided or supplied by that 11854
purchaser to a third party as an employment service, except 11855
"employment service" does include the transaction between that 11856
purchaser and the third party. 11857

(KK) "Employment placement service" means locating or 11858
finding employment for a person or finding or locating an 11859
employee to fill an available position. 11860

(LL) "Exterminating service" means eradicating or 11861
attempting to eradicate vermin infestations from a building or 11862
structure, or the area surrounding a building or structure, and 11863
includes activities to inspect, detect, or prevent vermin 11864
infestation of a building or structure. 11865

(MM) "Physical fitness facility service" means all 11866
transactions by which a membership is granted, maintained, or 11867
renewed, including initiation fees, membership dues, renewal 11868
fees, monthly minimum fees, and other similar fees and dues, by 11869
a physical fitness facility such as an athletic club, health 11870
spa, or gymnasium, which entitles the member to use the facility 11871
for physical exercise. 11872

(NN) "Recreation and sports club service" means all 11873
transactions by which a membership is granted, maintained, or 11874
renewed, including initiation fees, membership dues, renewal 11875
fees, monthly minimum fees, and other similar fees and dues, by 11876
a recreation and sports club, which entitles the member to use 11877
the facilities of the organization. "Recreation and sports club" 11878
means an organization that has ownership of, or controls or 11879
leases on a continuing, long-term basis, the facilities used by 11880
its members and includes an aviation club, gun or shooting club, 11881
yacht club, card club, swimming club, tennis club, golf club, 11882
country club, riding club, amateur sports club, or similar 11883
organization. 11884

(OO) "Livestock" means farm animals commonly raised for 11885
food, food production, or other agricultural purposes, 11886
including, but not limited to, cattle, sheep, goats, swine, 11887
poultry, and captive deer. "Livestock" does not include 11888
invertebrates, amphibians, reptiles, domestic pets, animals for 11889
use in laboratories or for exhibition, or other animals not 11890

commonly raised for food or food production. 11891

(PP) "Livestock structure" means a building or structure 11892
used exclusively for the housing, raising, feeding, or 11893
sheltering of livestock, and includes feed storage or handling 11894
structures and structures for livestock waste handling. 11895

(QQ) "Horticulture" means the growing, cultivation, and 11896
production of flowers, fruits, herbs, vegetables, sod, 11897
mushrooms, and nursery stock. As used in this division, "nursery 11898
stock" has the same meaning as in section 927.51 of the Revised 11899
Code. 11900

(RR) "Horticulture structure" means a building or 11901
structure used exclusively for the commercial growing, raising, 11902
or overwintering of horticultural products, and includes the 11903
area used for stocking, storing, and packing horticultural 11904
products when done in conjunction with the production of those 11905
products. 11906

(SS) "Newspaper" means an unbound publication bearing a 11907
title or name that is regularly published, at least as 11908
frequently as biweekly, and distributed from a fixed place of 11909
business to the public in a specific geographic area, and that 11910
contains a substantial amount of news matter of international, 11911
national, or local events of interest to the general public. 11912

(TT) (1) "Feminine hygiene products" means tampons, panty 11913
liners, menstrual cups, sanitary napkins, and other similar 11914
tangible personal property designed for feminine hygiene in 11915
connection with the human menstrual cycle, but does not include 11916
grooming and hygiene products. 11917

(2) "Grooming and hygiene products" means soaps and 11918
cleaning solutions, shampoo, toothpaste, mouthwash, 11919

antiperspirants, and sun tan lotions and screens, regardless of 11920
whether any of these products are over-the-counter drugs. 11921

(3) "Over-the-counter drugs" means a drug that contains a 11922
label that identifies the product as a drug as required by 21 11923
C.F.R. 201.66, which label includes a drug facts panel or a 11924
statement of the active ingredients with a list of those 11925
ingredients contained in the compound, substance, or 11926
preparation. 11927

(UU) (1) "Lease" or "rental" means any transfer of the 11928
possession or control of tangible personal property for a fixed 11929
or indefinite term, for consideration. "Lease" or "rental" 11930
includes future options to purchase or extend, and agreements 11931
described in 26 U.S.C. 7701(h) (1) covering motor vehicles and 11932
trailers where the amount of consideration may be increased or 11933
decreased by reference to the amount realized upon the sale or 11934
disposition of the property. "Lease" or "rental" does not 11935
include: 11936

(a) A transfer of possession or control of tangible 11937
personal property under a security agreement or a deferred 11938
payment plan that requires the transfer of title upon completion 11939
of the required payments; 11940

(b) A transfer of possession or control of tangible 11941
personal property under an agreement that requires the transfer 11942
of title upon completion of required payments and payment of an 11943
option price that does not exceed the greater of one hundred 11944
dollars or one per cent of the total required payments; 11945

(c) Providing tangible personal property along with an 11946
operator for a fixed or indefinite period of time, if the 11947
operator is necessary for the property to perform as designed. 11948

For purposes of this division, the operator must do more than 11949
maintain, inspect, or set up the tangible personal property. 11950

(2) "Lease" and "rental," as defined in division (UU) of 11951
this section, shall not apply to leases or rentals that exist 11952
before June 26, 2003. 11953

(3) "Lease" and "rental" have the same meaning as in 11954
division (UU) (1) of this section regardless of whether a 11955
transaction is characterized as a lease or rental under 11956
generally accepted accounting principles, the Internal Revenue 11957
Code, Title XIII of the Revised Code, or other federal, state, 11958
or local laws. 11959

(VV) "Mobile telecommunications service" has the same 11960
meaning as in the "Mobile Telecommunications Sourcing Act," Pub. 11961
L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as 11962
amended, and, on and after August 1, 2003, includes related fees 11963
and ancillary services, including universal service fees, 11964
detailed billing service, directory assistance, service 11965
initiation, voice mail service, and vertical services, such as 11966
caller ID and three-way calling. 11967

(WW) "Certified service provider" has the same meaning as 11968
in section 5740.01 of the Revised Code. 11969

(XX) "Satellite broadcasting service" means the 11970
distribution or broadcasting of programming or services by 11971
satellite directly to the subscriber's receiving equipment 11972
without the use of ground receiving or distribution equipment, 11973
except the subscriber's receiving equipment or equipment used in 11974
the uplink process to the satellite, and includes all service 11975
and rental charges, premium channels or other special services, 11976
installation and repair service charges, and any other charges 11977

having any connection with the provision of the satellite 11978
broadcasting service. 11979

(YY) "Tangible personal property" means personal property 11980
that can be seen, weighed, measured, felt, or touched, or that 11981
is in any other manner perceptible to the senses. For purposes 11982
of this chapter and Chapter 5741. of the Revised Code, "tangible 11983
personal property" includes motor vehicles, electricity, water, 11984
gas, steam, and prewritten computer software. 11985

(ZZ) "Municipal gas utility" means a municipal corporation 11986
that owns or operates a system for the distribution of natural 11987
gas. 11988

(AAA) "Computer" means an electronic device that accepts 11989
information in digital or similar form and manipulates it for a 11990
result based on a sequence of instructions. 11991

(BBB) "Computer software" means a set of coded 11992
instructions designed to cause a computer or automatic data 11993
processing equipment to perform a task. 11994

(CCC) "Delivered electronically" means delivery of 11995
computer software from the seller to the purchaser by means 11996
other than tangible storage media. 11997

(DDD) "Prewritten computer software" means computer 11998
software, including prewritten upgrades, that is not designed 11999
and developed by the author or other creator to the 12000
specifications of a specific purchaser. The combining of two or 12001
more prewritten computer software programs or prewritten 12002
portions thereof does not cause the combination to be other than 12003
prewritten computer software. "Prewritten computer software" 12004
includes software designed and developed by the author or other 12005
creator to the specifications of a specific purchaser when it is 12006

sold to a person other than the purchaser. If a person modifies 12007
or enhances computer software of which the person is not the 12008
author or creator, the person shall be deemed to be the author 12009
or creator only of such person's modifications or enhancements. 12010
Prewritten computer software or a prewritten portion thereof 12011
that is modified or enhanced to any degree, where such 12012
modification or enhancement is designed and developed to the 12013
specifications of a specific purchaser, remains prewritten 12014
computer software; provided, however, that where there is a 12015
reasonable, separately stated charge or an invoice or other 12016
statement of the price given to the purchaser for the 12017
modification or enhancement, the modification or enhancement 12018
shall not constitute prewritten computer software. 12019

(EEE) (1) "Food" means substances, whether in liquid, 12020
concentrated, solid, frozen, dried, or dehydrated form, that are 12021
sold for ingestion or chewing by humans and are consumed for 12022
their taste or nutritional value. "Food" does not include 12023
alcoholic beverages, dietary supplements, soft drinks, or 12024
tobacco. 12025

(2) As used in division (EEE) (1) of this section: 12026

(a) "Alcoholic beverages" means beverages that are 12027
suitable for human consumption and contain one-half of one per 12028
cent or more of alcohol by volume. 12029

(b) "Dietary supplements" means any product, other than 12030
tobacco, that is intended to supplement the diet and that is 12031
intended for ingestion in tablet, capsule, powder, softgel, 12032
gelcap, or liquid form, or, if not intended for ingestion in 12033
such a form, is not represented as conventional food for use as 12034
a sole item of a meal or of the diet; that is required to be 12035
labeled as a dietary supplement, identifiable by the "supplement 12036

facts" box found on the label, as required by 21 C.F.R. 101.36; 12037
and that contains one or more of the following dietary 12038
ingredients: 12039

(i) A vitamin; 12040

(ii) A mineral; 12041

(iii) An herb or other botanical; 12042

(iv) An amino acid; 12043

(v) A dietary substance for use by humans to supplement 12044
the diet by increasing the total dietary intake; 12045

(vi) A concentrate, metabolite, constituent, extract, or 12046
combination of any ingredient described in divisions (EEE) (2) (b) 12047
(i) to (v) of this section. 12048

(c) "Soft drinks" means nonalcoholic beverages that 12049
contain natural or artificial sweeteners. "Soft drinks" does not 12050
include beverages that contain milk or milk products, soy, rice, 12051
or similar milk substitutes, or that contains greater than fifty 12052
per cent vegetable or fruit juice by volume. 12053

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 12054
tobacco, or any other item that contains tobacco. 12055

(FFF) "Drug" means a compound, substance, or preparation, 12056
and any component of a compound, substance, or preparation, 12057
other than food, dietary supplements, or alcoholic beverages 12058
that is recognized in the official United States pharmacopoeia, 12059
official homeopathic pharmacopoeia of the United States, or 12060
official national formulary, and supplements to them; is 12061
intended for use in the diagnosis, cure, mitigation, treatment, 12062
or prevention of disease; or is intended to affect the structure 12063
or any function of the body. 12064

(GGG) "Prescription" means an order, formula, or recipe 12065
issued in any form of oral, written, electronic, or other means 12066
of transmission by a duly licensed practitioner authorized by 12067
the laws of this state to issue a prescription. 12068

(HHH) "Durable medical equipment" means equipment, 12069
including repair and replacement parts for such equipment, that 12070
can withstand repeated use, is primarily and customarily used to 12071
serve a medical purpose, generally is not useful to a person in 12072
the absence of illness or injury, and is not worn in or on the 12073
body. "Durable medical equipment" does not include mobility 12074
enhancing equipment. 12075

(III) "Mobility enhancing equipment" means equipment, 12076
including repair and replacement parts for such equipment, that 12077
is primarily and customarily used to provide or increase the 12078
ability to move from one place to another and is appropriate for 12079
use either in a home or a motor vehicle, that is not generally 12080
used by persons with normal mobility, and that does not include 12081
any motor vehicle or equipment on a motor vehicle normally 12082
provided by a motor vehicle manufacturer. "Mobility enhancing 12083
equipment" does not include durable medical equipment. 12084

(JJJ) "Prosthetic device" means a replacement, corrective, 12085
or supportive device, including repair and replacement parts for 12086
the device, worn on or in the human body to artificially replace 12087
a missing portion of the body, prevent or correct physical 12088
deformity or malfunction, or support a weak or deformed portion 12089
of the body. As used in this division, before July 1, 2019, 12090
"prosthetic device" does not include corrective eyeglasses, 12091
contact lenses, or dental prosthesis. On or after July 1, 2019, 12092
"prosthetic device" does not include dental prosthesis but does 12093
include corrective eyeglasses or contact lenses. 12094

(KKK) (1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK) (1) of this section:

(a) "Affiliated group" has the same meaning as in division (B) (3) (e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK) (1) (e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease

aircraft interchange arrangement and agreement under divisions 12123
(KKK) (1) (d) and (e) of this section, or an aircraft a program 12124
manager owns or possesses primarily for use in a fractional 12125
aircraft ownership program. 12126

(d) "Management services" means administrative and 12127
aviation support services furnished under a fractional aircraft 12128
ownership program in accordance with a management services 12129
agreement under division (KKK) (1) (e) of this section, and 12130
offered by the program manager to the fractional owners, 12131
including, at a minimum, the establishment and implementation of 12132
safety guidelines; the coordination of the scheduling of the 12133
program aircraft and crews; program aircraft maintenance; 12134
program aircraft insurance; crew training for crews employed, 12135
furnished, or contracted by the program manager or the 12136
fractional owner; the satisfaction of record-keeping 12137
requirements; and the development and use of an operations 12138
manual and a maintenance manual for the fractional aircraft 12139
ownership program. 12140

(e) "Program manager" means the person that offers 12141
management services to fractional owners pursuant to a 12142
management services agreement under division (KKK) (1) (e) of this 12143
section. 12144

(LLL) "Electronic publishing" means providing access to 12145
one or more of the following primarily for business customers, 12146
including the federal government or a state government or a 12147
political subdivision thereof, to conduct research: news; 12148
business, financial, legal, consumer, or credit materials; 12149
editorials, columns, reader commentary, or features; photos or 12150
images; archival or research material; legal notices, identity 12151
verification, or public records; scientific, educational, 12152

instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

(QQQ) "Specified digital product" means an electronically transferred digital audiovisual work, digital audio work, or digital book.

As used in division (QQQ) of this section:

(1) "Digital audiovisual work" means a series of related

images that, when shown in succession, impart an impression of 12182
motion, together with accompanying sounds, if any. 12183

(2) "Digital audio work" means a work that results from 12184
the fixation of a series of musical, spoken, or other sounds, 12185
including digitized sound files that are downloaded onto a 12186
device and that may be used to alert the customer with respect 12187
to a communication. 12188

(3) "Digital book" means a work that is generally 12189
recognized in the ordinary and usual sense as a book. 12190

(4) "Electronically transferred" means obtained by the 12191
purchaser by means other than tangible storage media. 12192

(RRR) "Digital advertising services" means providing 12193
access, by means of telecommunications equipment, to computer 12194
equipment that is used to enter, upload, download, review, 12195
manipulate, store, add, or delete data for the purpose of 12196
electronically displaying, delivering, placing, or transferring 12197
promotional advertisements to potential customers about products 12198
or services or about industry or business brands. 12199

(SSS) "Peer-to-peer car sharing program" has the same 12200
meaning as in section 4516.01 of the Revised Code. 12201

Sec. 5739.011. (A) As used in this section: 12202

(1) "Manufacturer" means a person who is engaged in 12203
manufacturing, processing, assembling, or refining a product for 12204
sale and, solely for the purposes of division (B) (12) of this 12205
section, a person who meets all the qualifications of that 12206
division. 12207

(2) "Manufacturing facility" means a single location where 12208
a manufacturing operation is conducted, including locations 12209

consisting of one or more buildings or structures in a 12210
contiguous area owned or controlled by the manufacturer. 12211

(3) "Materials handling" means the movement of the product 12212
being or to be manufactured, during which movement the product 12213
is not undergoing any substantial change or alteration in its 12214
state or form. 12215

(4) "Testing" means a process or procedure to identify the 12216
properties or assure the quality of a material or product. 12217

(5) "Completed product" means a manufactured item that is 12218
in the form and condition as it will be sold by the 12219
manufacturer. An item is completed when all processes that 12220
change or alter its state or form or enhance its value are 12221
finished, even though the item subsequently will be tested to 12222
ensure its quality or be packaged for storage or shipment. 12223

(6) "Continuous manufacturing operation" means the process 12224
in which raw materials or components are moved through the steps 12225
whereby manufacturing occurs. Materials handling of raw 12226
materials or parts from the point of receipt or preproduction 12227
storage or of a completed product, to or from storage, to or 12228
from packaging, or to the place from which the completed product 12229
will be shipped, is not a part of a continuous manufacturing 12230
operation. 12231

(7) "Food" has the same meaning as in section 3717.01 of 12232
the Revised Code. 12233

(B) For purposes of division (B) (42) (g) of section 5739.02 12234
of the Revised Code, the "thing transferred" includes, but is 12235
not limited to, any of the following: 12236

(1) Production machinery and equipment that act upon the 12237
product or machinery and equipment that treat the materials or 12238

parts in preparation for the manufacturing operation;	12239
(2) Materials handling equipment that moves the product through a continuous manufacturing operation; equipment that temporarily stores the product during the manufacturing operation; or, excluding motor vehicles licensed to operate on public highways, equipment used in intraplant or interplant transfers of work in process where the plant or plants between which such transfers occur are manufacturing facilities operated by the same person;	12240 12241 12242 12243 12244 12245 12246 12247
(3) Catalysts, solvents, water, acids, oil, and similar consumables that interact with the product and that are an integral part of the manufacturing operation;	12248 12249 12250
(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;	12251 12252 12253 12254 12255 12256
(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;	12257 12258 12259 12260
(6) Machinery, equipment, and other tangible personal property used by a manufacturer to test raw materials, the product being manufactured, or the completed product;	12261 12262 12263
(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;	12264 12265 12266
(8) Coke, gas, water, steam, and similar substances used	12267

in the manufacturing operation; machinery and equipment used	12268
for, and fuel consumed in, producing or extracting those	12269
substances; machinery, equipment, and other tangible personal	12270
property used to treat, filter, pump, or otherwise make the	12271
substance suitable for use in the manufacturing operation; and	12272
machinery and equipment used for, and fuel consumed in,	12273
producing electricity for use in the manufacturing operation;	12274
(9) Machinery, equipment, and other tangible personal	12275
property used to transport or transmit electricity, coke, gas,	12276
water, steam, or similar substances used in the manufacturing	12277
operation from the point of generation, if produced by the	12278
manufacturer, or from the point where the substance enters the	12279
manufacturing facility, if purchased by the manufacturer, to the	12280
manufacturing operation;	12281
(10) Machinery, equipment, and other tangible personal	12282
property that treats, filters, cools, refines, or otherwise	12283
renders water, steam, acid, oil, solvents, or similar substances	12284
used in the manufacturing operation reusable, provided that the	12285
substances are intended for reuse and not for disposal, sale, or	12286
transportation from the manufacturing facility;	12287
(11) Parts, components, and repair and installation	12288
services for items described in division (B) of this section;	12289
(12) Machinery and equipment, detergents, supplies,	12290
solvents, and any other tangible personal property located at a	12291
manufacturing facility that are used in the process of removing	12292
soil, dirt, or other contaminants from, or otherwise preparing	12293
in a suitable condition for use, towels, linens, articles of	12294
clothing, floor mats, mop heads, or other similar items, to be	12295
supplied to a consumer as part of laundry and dry cleaning	12296
services as defined in division (BB) of section 5739.01 of the	12297

Revised Code , only when the towels, linens, articles of	12298
clothing, floor mats, mop heads, or other similar items belong	12299
to the provider of the services;	12300
(13) Equipment and supplies used to clean processing	12301
equipment that is part of a continuous manufacturing operation	12302
to produce food for human consumption.	12303
(C) For purposes of division (B) (42) (g) of section 5739.02	12304
of the Revised Code, the "thing transferred" does not include	12305
any of the following:	12306
(1) Tangible personal property used in administrative,	12307
personnel, security, inventory control, record-keeping,	12308
ordering, billing, or similar functions;	12309
(2) Tangible personal property used in storing raw	12310
materials or parts prior to the commencement of the	12311
manufacturing operation or used to handle or store a completed	12312
product, including storage that actively maintains a completed	12313
product in a marketable state or form;	12314
(3) Tangible personal property used to handle or store	12315
scrap or waste intended for disposal, sale, or other	12316
disposition, other than reuse in the manufacturing operation at	12317
the same manufacturing facility;	12318
(4) Tangible personal property that is or is to be	12319
incorporated into realty;	12320
(5) Machinery, equipment, and other tangible personal	12321
property used for ventilation, dust or gas collection, humidity	12322
or temperature regulation, or similar environmental control,	12323
except machinery, equipment, and other tangible personal	12324
property that totally regulates the environment in a special and	12325
limited area of the manufacturing facility where the regulation	12326

is essential for production to occur; 12327

(6) Tangible personal property used for the protection and 12328
safety of workers, unless the property is attached to or 12329
incorporated into machinery and equipment used in a continuous 12330
manufacturing operation; 12331

(7) Tangible personal property used to store fuel, water, 12332
solvents, acid, oil, or similar items consumed in the 12333
manufacturing operation; 12334

(8) Except as provided in division (B) (13) of this 12335
section, machinery, equipment, and other tangible personal 12336
property used to clean, repair, or maintain real or personal 12337
property in the manufacturing facility; 12338

(9) Motor vehicles registered for operation on public 12339
highways. 12340

(D) For purposes of division (B) (42) (g) of section 5739.02 12341
of the Revised Code, if the "thing transferred" is a machine 12342
used by a manufacturer in both a taxable and an exempt manner, 12343
it shall be totally taxable or totally exempt from taxation 12344
based upon its quantified primary use. If the "things 12345
transferred" are fungibles, they shall be taxed based upon the 12346
proportion of the fungibles used in a taxable manner. 12347

Sec. 5739.02. For the purpose of providing revenue with 12348
which to meet the needs of the state, for the use of the general 12349
revenue fund of the state, for the purpose of securing a 12350
thorough and efficient system of common schools throughout the 12351
state, for the purpose of affording revenues, in addition to 12352
those from general property taxes, permitted under 12353
constitutional limitations, and from other sources, for the 12354
support of local governmental functions, and for the purpose of 12355

reimbursing the state for the expense of administering this 12356
chapter, an excise tax is hereby levied on each retail sale made 12357
in this state. 12358

(A) (1) The tax shall be collected as provided in section 12359
5739.025 of the Revised Code. The rate of the tax shall be five 12360
and three-fourths per cent. The tax applies and is collectible 12361
when the sale is made, regardless of the time when the price is 12362
paid or delivered. 12363

(2) In the case of the lease or rental, with a fixed term 12364
of more than thirty days or an indefinite term with a minimum 12365
period of more than thirty days, of any motor vehicles designed 12366
by the manufacturer to carry a load of not more than one ton, 12367
watercraft, outboard motor, or aircraft, or of any tangible 12368
personal property, other than motor vehicles designed by the 12369
manufacturer to carry a load of more than one ton, to be used by 12370
the lessee or renter primarily for business purposes, the tax 12371
shall be collected by the vendor at the time the lease or rental 12372
is consummated and shall be calculated by the vendor on the 12373
basis of the total amount to be paid by the lessee or renter 12374
under the lease agreement. If the total amount of the 12375
consideration for the lease or rental includes amounts that are 12376
not calculated at the time the lease or rental is executed, the 12377
tax shall be calculated and collected by the vendor at the time 12378
such amounts are billed to the lessee or renter. In the case of 12379
an open-end lease or rental, the tax shall be calculated by the 12380
vendor on the basis of the total amount to be paid during the 12381
initial fixed term of the lease or rental, and for each 12382
subsequent renewal period as it comes due. As used in this 12383
division, "motor vehicle" has the same meaning as in section 12384
4501.01 of the Revised Code, and "watercraft" includes an 12385
outdrive unit attached to the watercraft. 12386

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A) (2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and sales or transfers of	12416
magazines distributed as controlled circulation publications;	12417
(5) The furnishing, preparing, or serving of meals without	12418
charge by an employer to an employee provided the employer	12419
records the meals as part compensation for services performed or	12420
work done;	12421
(6) (a) Sales of motor fuel upon receipt, use,	12422
distribution, or sale of which in this state a tax is imposed by	12423
the law of this state, but this exemption shall not apply to the	12424
sale of motor fuel on which a refund of the tax is allowable	12425
under division (A) of section 5735.14 of the Revised Code; and	12426
the tax commissioner may deduct the amount of tax levied by this	12427
section applicable to the price of motor fuel when granting a	12428
refund of motor fuel tax pursuant to division (A) of section	12429
5735.14 of the Revised Code and shall cause the amount deducted	12430
to be paid into the general revenue fund of this state;	12431
(b) Sales of motor fuel other than that described in	12432
division (B) (6) (a) of this section and used for powering a	12433
refrigeration unit on a vehicle other than one used primarily to	12434
provide comfort to the operator or occupants of the vehicle.	12435
(7) Sales of natural gas by a natural gas company or	12436
municipal gas utility, of water by a water-works company, or of	12437
steam by a heating company, if in each case the thing sold is	12438
delivered to consumers through pipes or conduits, and all sales	12439
of communications services by a telegraph company, all terms as	12440
defined in section 5727.01 of the Revised Code, and sales of	12441
electricity delivered through wires;	12442
(8) Casual sales by a person, or auctioneer employed	12443
directly by the person to conduct such sales, except as to such	12444

sales of motor vehicles, watercraft or outboard motors required 12445
to be titled under section 1548.06 of the Revised Code, 12446
watercraft documented with the United States coast guard, 12447
snowmobiles, and all-purpose vehicles as defined in section 12448
4519.01 of the Revised Code; 12449

(9) (a) Sales of services or tangible personal property, 12450
other than motor vehicles, mobile homes, and manufactured homes, 12451
by churches, organizations exempt from taxation under section 12452
501(c) (3) of the Internal Revenue Code of 1986, or nonprofit 12453
organizations operated exclusively for charitable purposes as 12454
defined in division (B) (12) of this section, provided that the 12455
number of days on which such tangible personal property or 12456
services, other than items never subject to the tax, are sold 12457
does not exceed six in any calendar year, except as otherwise 12458
provided in division (B) (9) (b) of this section. If the number of 12459
days on which such sales are made exceeds six in any calendar 12460
year, the church or organization shall be considered to be 12461
engaged in business and all subsequent sales by it shall be 12462
subject to the tax. In counting the number of days, all sales by 12463
groups within a church or within an organization shall be 12464
considered to be sales of that church or organization. 12465

(b) The limitation on the number of days on which tax- 12466
exempt sales may be made by a church or organization under 12467
division (B) (9) (a) of this section does not apply to sales made 12468
by student clubs and other groups of students of a primary or 12469
secondary school, or a parent-teacher association, booster 12470
group, or similar organization that raises money to support or 12471
fund curricular or extracurricular activities of a primary or 12472
secondary school. 12473

(c) Divisions (B) (9) (a) and (b) of this section do not 12474

apply to sales by a noncommercial educational radio or	12475
television broadcasting station.	12476
(10) Sales not within the taxing power of this state under	12477
the Constitution or laws of the United States or the	12478
Constitution of this state;	12479
(11) Except for transactions that are sales under division	12480
(B) (3) (r) of section 5739.01 of the Revised Code, the	12481
transportation of persons or property, unless the transportation	12482
is by a private investigation and security service;	12483
(12) Sales of tangible personal property or services to	12484
churches, to organizations exempt from taxation under section	12485
501(c) (3) of the Internal Revenue Code of 1986, and to any other	12486
nonprofit organizations operated exclusively for charitable	12487
purposes in this state, no part of the net income of which	12488
inures to the benefit of any private shareholder or individual,	12489
and no substantial part of the activities of which consists of	12490
carrying on propaganda or otherwise attempting to influence	12491
legislation; sales to offices administering one or more homes	12492
for the aged or one or more hospital facilities exempt under	12493
section 140.08 of the Revised Code; and sales to organizations	12494
described in division (D) of section 5709.12 of the Revised	12495
Code.	12496
"Charitable purposes" means the relief of poverty; the	12497
improvement of health through the alleviation of illness,	12498
disease, or injury; the operation of an organization exclusively	12499
for the provision of professional, laundry, printing, and	12500
purchasing services to hospitals or charitable institutions; the	12501
operation of a home for the aged, as defined in section 5701.13	12502
of the Revised Code; the operation of a radio or television	12503
broadcasting station that is licensed by the federal	12504

communications commission as a noncommercial educational radio 12505
or television station; the operation of a nonprofit animal 12506
adoption service or a county humane society; the promotion of 12507
education by an institution of learning that maintains a faculty 12508
of qualified instructors, teaches regular continuous courses of 12509
study, and confers a recognized diploma upon completion of a 12510
specific curriculum; the operation of a parent-teacher 12511
association, booster group, or similar organization primarily 12512
engaged in the promotion and support of the curricular or 12513
extracurricular activities of a primary or secondary school; the 12514
operation of a community or area center in which presentations 12515
in music, dramatics, the arts, and related fields are made in 12516
order to foster public interest and education therein; the 12517
production of performances in music, dramatics, and the arts; or 12518
the promotion of education by an organization engaged in 12519
carrying on research in, or the dissemination of, scientific and 12520
technological knowledge and information primarily for the 12521
public. 12522

Nothing in this division shall be deemed to exempt sales 12523
to any organization for use in the operation or carrying on of a 12524
trade or business, or sales to a home for the aged for use in 12525
the operation of independent living facilities as defined in 12526
division (A) of section 5709.12 of the Revised Code. 12527

(13) Building and construction materials and services sold 12528
to construction contractors for incorporation into a structure 12529
or improvement to real property under a construction contract 12530
with this state or a political subdivision of this state, or 12531
with the United States government or any of its agencies; 12532
building and construction materials and services sold to 12533
construction contractors for incorporation into a structure or 12534
improvement to real property that are accepted for ownership by 12535

this state or any of its political subdivisions, or by the 12536
United States government or any of its agencies at the time of 12537
completion of the structures or improvements; building and 12538
construction materials sold to construction contractors for 12539
incorporation into a horticulture structure or livestock 12540
structure for a person engaged in the business of horticulture 12541
or producing livestock; building materials and services sold to 12542
a construction contractor for incorporation into a house of 12543
public worship or religious education, or a building used 12544
exclusively for charitable purposes under a construction 12545
contract with an organization whose purpose is as described in 12546
division (B) (12) of this section; building materials and 12547
services sold to a construction contractor for incorporation 12548
into a building under a construction contract with an 12549
organization exempt from taxation under section 501(c) (3) of the 12550
Internal Revenue Code of 1986 when the building is to be used 12551
exclusively for the organization's exempt purposes; building and 12552
construction materials sold for incorporation into the original 12553
construction of a sports facility under section 307.696 of the 12554
Revised Code; building and construction materials and services 12555
sold to a construction contractor for incorporation into real 12556
property outside this state if such materials and services, when 12557
sold to a construction contractor in the state in which the real 12558
property is located for incorporation into real property in that 12559
state, would be exempt from a tax on sales levied by that state; 12560
building and construction materials for incorporation into a 12561
transportation facility pursuant to a public-private agreement 12562
entered into under sections 5501.70 to 5501.83 of the Revised 12563
Code; and, until one calendar year after the construction of a 12564
convention center that qualifies for property tax exemption 12565
under section 5709.084 of the Revised Code is completed, 12566
building and construction materials and services sold to a 12567

construction contractor for incorporation into the real property 12568
comprising that convention center; 12569

(14) Sales of ships or vessels or rail rolling stock used 12570
or to be used principally in interstate or foreign commerce, and 12571
repairs, alterations, fuel, and lubricants for such ships or 12572
vessels or rail rolling stock; 12573

(15) Sales to persons primarily engaged in any of the 12574
activities mentioned in division (B) (42) (a), (g), or (h) of this 12575
section, to persons engaged in making retail sales, or to 12576
persons who purchase for sale from a manufacturer tangible 12577
personal property that was produced by the manufacturer in 12578
accordance with specific designs provided by the purchaser, of 12579
packages, including material, labels, and parts for packages, 12580
and of machinery, equipment, and material for use primarily in 12581
packaging tangible personal property produced for sale, 12582
including any machinery, equipment, and supplies used to make 12583
labels or packages, to prepare packages or products for 12584
labeling, or to label packages or products, by or on the order 12585
of the person doing the packaging, or sold at retail. "Packages" 12586
includes bags, baskets, cartons, crates, boxes, cans, bottles, 12587
bindings, wrappings, and other similar devices and containers, 12588
but does not include motor vehicles or bulk tanks, trailers, or 12589
similar devices attached to motor vehicles. "Packaging" means 12590
placing in a package. Division (B) (15) of this section does not 12591
apply to persons engaged in highway transportation for hire. 12592

(16) Sales of food to persons using supplemental nutrition 12593
assistance program benefits to purchase the food. As used in 12594
this division, "food" has the same meaning as in 7 U.S.C. 2012 12595
and federal regulations adopted pursuant to the Food and 12596
Nutrition Act of 2008. 12597

(17) Sales to persons engaged in farming, agriculture,	12598
horticulture, or floriculture, of tangible personal property for	12599
use or consumption primarily in the production by farming,	12600
agriculture, horticulture, or floriculture of other tangible	12601
personal property for use or consumption primarily in the	12602
production of tangible personal property for sale by farming,	12603
agriculture, horticulture, or floriculture; or material and	12604
parts for incorporation into any such tangible personal property	12605
for use or consumption in production; and of tangible personal	12606
property for such use or consumption in the conditioning or	12607
holding of products produced by and for such use, consumption,	12608
or sale by persons engaged in farming, agriculture,	12609
horticulture, or floriculture, except where such property is	12610
incorporated into real property;	12611
(18) Sales of drugs for a human being that may be	12612
dispensed only pursuant to a prescription; insulin as recognized	12613
in the official United States pharmacopoeia; urine and blood	12614
testing materials when used by diabetics or persons with	12615
hypoglycemia to test for glucose or acetone; hypodermic syringes	12616
and needles when used by diabetics for insulin injections;	12617
epoetin alfa when purchased for use in the treatment of persons	12618
with medical disease; hospital beds when purchased by hospitals,	12619
nursing homes, or other medical facilities; and medical oxygen	12620
and medical oxygen-dispensing equipment when purchased by	12621
hospitals, nursing homes, or other medical facilities;	12622
(19) Sales of prosthetic devices, durable medical	12623
equipment for home use, or mobility enhancing equipment, when	12624
made pursuant to a prescription and when such devices or	12625
equipment are for use by a human being.	12626
(20) Sales of emergency and fire protection vehicles and	12627

equipment to nonprofit organizations for use solely in providing 12628
fire protection and emergency services, including trauma care 12629
and emergency medical services, for political subdivisions of 12630
the state; 12631

(21) Sales of tangible personal property manufactured in 12632
this state, if sold by the manufacturer in this state to a 12633
retailer for use in the retail business of the retailer outside 12634
of this state and if possession is taken from the manufacturer 12635
by the purchaser within this state for the sole purpose of 12636
immediately removing the same from this state in a vehicle owned 12637
by the purchaser; 12638

(22) Sales of services provided by the state or any of its 12639
political subdivisions, agencies, instrumentalities, 12640
institutions, or authorities, or by governmental entities of the 12641
state or any of its political subdivisions, agencies, 12642
instrumentalities, institutions, or authorities; 12643

(23) Sales of motor vehicles to nonresidents of this state 12644
under the circumstances described in division (B) of section 12645
5739.029 of the Revised Code; 12646

(24) Sales to persons engaged in the preparation of eggs 12647
for sale of tangible personal property used or consumed directly 12648
in such preparation, including such tangible personal property 12649
used for cleaning, sanitizing, preserving, grading, sorting, and 12650
classifying by size; packages, including material and parts for 12651
packages, and machinery, equipment, and material for use in 12652
packaging eggs for sale; and handling and transportation 12653
equipment and parts therefor, except motor vehicles licensed to 12654
operate on public highways, used in intraplant or interplant 12655
transfers or shipment of eggs in the process of preparation for 12656
sale, when the plant or plants within or between which such 12657

transfers or shipments occur are operated by the same person.	12658
"Packages" includes containers, cases, baskets, flats, fillers,	12659
filler flats, cartons, closure materials, labels, and labeling	12660
materials, and "packaging" means placing therein.	12661
(25) (a) Sales of water to a consumer for residential use;	12662
(b) Sales of water by a nonprofit corporation engaged	12663
exclusively in the treatment, distribution, and sale of water to	12664
consumers, if such water is delivered to consumers through pipes	12665
or tubing.	12666
(26) Fees charged for inspection or reinspection of motor	12667
vehicles under section 3704.14 of the Revised Code;	12668
(27) Sales to persons licensed to conduct a food service	12669
operation pursuant to section 3717.43 of the Revised Code, of	12670
tangible personal property primarily used directly for the	12671
following:	12672
(a) To prepare food for human consumption for sale;	12673
(b) To preserve food that has been or will be prepared for	12674
human consumption for sale by the food service operator, not	12675
including tangible personal property used to display food for	12676
selection by the consumer;	12677
(c) To clean tangible personal property used to prepare or	12678
serve food for human consumption for sale.	12679
(28) Sales of animals by nonprofit animal adoption	12680
services or county humane societies;	12681
(29) Sales of services to a corporation described in	12682
division (A) of section 5709.72 of the Revised Code, and sales	12683
of tangible personal property that qualifies for exemption from	12684
taxation under section 5709.72 of the Revised Code;	12685

(30) Sales and installation of agricultural land tile, as 12686
defined in division (B) (5) (a) of section 5739.01 of the Revised 12687
Code; 12688

(31) Sales and erection or installation of portable grain 12689
bins, as defined in division (B) (5) (b) of section 5739.01 of the 12690
Revised Code; 12691

(32) The sale, lease, repair, and maintenance of, parts 12692
for, or items attached to or incorporated in, motor vehicles 12693
that are primarily used for transporting tangible personal 12694
property belonging to others by a person engaged in highway 12695
transportation for hire, except for packages and packaging used 12696
for the transportation of tangible personal property; 12697

(33) Sales to the state headquarters of any veterans' 12698
organization in this state that is either incorporated and 12699
issued a charter by the congress of the United States or is 12700
recognized by the United States veterans administration, for use 12701
by the headquarters; 12702

(34) Sales to a telecommunications service vendor, mobile 12703
telecommunications service vendor, or satellite broadcasting 12704
service vendor of tangible personal property and services used 12705
directly and primarily in transmitting, receiving, switching, or 12706
recording any interactive, one- or two-way electromagnetic 12707
communications, including voice, image, data, and information, 12708
through the use of any medium, including, but not limited to, 12709
poles, wires, cables, switching equipment, computers, and record 12710
storage devices and media, and component parts for the tangible 12711
personal property. The exemption provided in this division shall 12712
be in lieu of all other exemptions under division (B) (42) (a) or 12713
(n) of this section to which the vendor may otherwise be 12714
entitled, based upon the use of the thing purchased in providing 12715

the telecommunications, mobile telecommunications, or satellite 12716
broadcasting service. 12717

(35) (a) Sales where the purpose of the consumer is to use 12718
or consume the things transferred in making retail sales and 12719
consisting of newspaper inserts, catalogues, coupons, flyers, 12720
gift certificates, or other advertising material that prices and 12721
describes tangible personal property offered for retail sale. 12722

(b) Sales to direct marketing vendors of preliminary 12723
materials such as photographs, artwork, and typesetting that 12724
will be used in printing advertising material; and of printed 12725
matter that offers free merchandise or chances to win sweepstake 12726
prizes and that is mailed to potential customers with 12727
advertising material described in division (B) (35) (a) of this 12728
section; 12729

(c) Sales of equipment such as telephones, computers, 12730
facsimile machines, and similar tangible personal property 12731
primarily used to accept orders for direct marketing retail 12732
sales. 12733

(d) Sales of automatic food vending machines that preserve 12734
food with a shelf life of forty-five days or less by 12735
refrigeration and dispense it to the consumer. 12736

For purposes of division (B) (35) of this section, "direct 12737
marketing" means the method of selling where consumers order 12738
tangible personal property by United States mail, delivery 12739
service, or telecommunication and the vendor delivers or ships 12740
the tangible personal property sold to the consumer from a 12741
warehouse, catalogue distribution center, or similar fulfillment 12742
facility by means of the United States mail, delivery service, 12743
or common carrier. 12744

(36) Sales to a person engaged in the business of 12745
horticulture or producing livestock of materials to be 12746
incorporated into a horticulture structure or livestock 12747
structure; 12748

(37) Sales of personal computers, computer monitors, 12749
computer keyboards, modems, and other peripheral computer 12750
equipment to an individual who is licensed or certified to teach 12751
in an elementary or a secondary school in this state for use by 12752
that individual in preparation for teaching elementary or 12753
secondary school students; 12754

(38) Sales of tangible personal property that is not 12755
required to be registered or licensed under the laws of this 12756
state to a citizen of a foreign nation that is not a citizen of 12757
the United States, provided the property is delivered to a 12758
person in this state that is not a related member of the 12759
purchaser, is physically present in this state for the sole 12760
purpose of temporary storage and package consolidation, and is 12761
subsequently delivered to the purchaser at a delivery address in 12762
a foreign nation. As used in division (B)(38) of this section, 12763
"related member" has the same meaning as in section 5733.042 of 12764
the Revised Code, and "temporary storage" means the storage of 12765
tangible personal property for a period of not more than sixty 12766
days. 12767

(39) Sales of used manufactured homes and used mobile 12768
homes, as defined in section 5739.0210 of the Revised Code, made 12769
on or after January 1, 2000; 12770

(40) Sales of tangible personal property and services to a 12771
provider of electricity used or consumed directly and primarily 12772
in generating, transmitting, or distributing electricity for use 12773
by others, including property that is or is to be incorporated 12774

into and will become a part of the consumer's production, 12775
transmission, or distribution system and that retains its 12776
classification as tangible personal property after 12777
incorporation; fuel or power used in the production, 12778
transmission, or distribution of electricity; energy conversion 12779
equipment as defined in section 5727.01 of the Revised Code; and 12780
tangible personal property and services used in the repair and 12781
maintenance of the production, transmission, or distribution 12782
system, including only those motor vehicles as are specially 12783
designed and equipped for such use. The exemption provided in 12784
this division shall be in lieu of all other exemptions in 12785
division (B) (42) (a) or (n) of this section to which a provider 12786
of electricity may otherwise be entitled based on the use of the 12787
tangible personal property or service purchased in generating, 12788
transmitting, or distributing electricity. 12789

(41) Sales to a person providing services under division 12790
(B) (3) (r) of section 5739.01 of the Revised Code of tangible 12791
personal property and services used directly and primarily in 12792
providing taxable services under that section. 12793

(42) Sales where the purpose of the purchaser is to do any 12794
of the following: 12795

(a) To incorporate the thing transferred as a material or 12796
a part into tangible personal property to be produced for sale 12797
by manufacturing, assembling, processing, or refining; or to use 12798
or consume the thing transferred directly in producing tangible 12799
personal property for sale by mining, including, without 12800
limitation, the extraction from the earth of all substances that 12801
are classed geologically as minerals, or directly in the 12802
rendition of a public utility service, except that the sales tax 12803
levied by this section shall be collected upon all meals, 12804

drinks, and food for human consumption sold when transporting 12805
persons. This paragraph does not exempt from "retail sale" or 12806
"sales at retail" the sale of tangible personal property that is 12807
to be incorporated into a structure or improvement to real 12808
property. 12809

(b) To hold the thing transferred as security for the 12810
performance of an obligation of the vendor; 12811

(c) To resell, hold, use, or consume the thing transferred 12812
as evidence of a contract of insurance; 12813

(d) To use or consume the thing directly in commercial 12814
fishing; 12815

(e) To incorporate the thing transferred as a material or 12816
a part into, or to use or consume the thing transferred directly 12817
in the production of, magazines distributed as controlled 12818
circulation publications; 12819

(f) To use or consume the thing transferred in the 12820
production and preparation in suitable condition for market and 12821
sale of printed, imprinted, overprinted, lithographic, 12822
multilithic, blueprinted, photostatic, or other productions or 12823
reproductions of written or graphic matter; 12824

(g) To use the thing transferred, as described in section 12825
5739.011 of the Revised Code, primarily in a manufacturing 12826
operation to produce tangible personal property for sale; 12827

(h) To use the benefit of a warranty, maintenance or 12828
service contract, or similar agreement, as described in division 12829
(B) (7) of section 5739.01 of the Revised Code, to repair or 12830
maintain tangible personal property, if all of the property that 12831
is the subject of the warranty, contract, or agreement would not 12832
be subject to the tax imposed by this section; 12833

(i) To use the thing transferred as qualified research and development equipment;	12834 12835
(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 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.	12836 12837 12838 12839 12840 12841 12842 12843 12844 12845 12846 12847 12848
(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;	12849 12850 12851 12852 12853 12854 12855
(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;	12856 12857
(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;	12858 12859 12860 12861 12862

(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, formatting, editing, storing, and disseminating data or information by electronic publishing;

(p) To provide the thing transferred to the owner or lessee of a motor vehicle that is being repaired or serviced, if the thing transferred is a rented motor vehicle and the purchaser is reimbursed for the cost of the rented motor vehicle by a manufacturer, warrantor, or provider of a maintenance, service, or other similar contract or agreement, with respect to the motor vehicle that is being repaired or serviced;

(q) To use or consume the thing transferred directly in production of crude oil and natural gas for sale. Persons engaged in rendering production services for others are deemed engaged in production.

As used in division (B) (42) (q) of this section, "production" means operations and tangible personal property directly used to expose and evaluate an underground reservoir that may contain hydrocarbon resources, prepare the wellbore for production, and lift and control all substances yielded by the reservoir to the surface of the earth.

(i) For the purposes of division (B) (42) (q) of this	12892
section, the "thing transferred" includes, but is not limited	12893
to, any of the following:	12894
(I) Services provided in the construction of permanent	12895
access roads, services provided in the construction of the well	12896
site, and services provided in the construction of temporary	12897
impoundments;	12898
(II) Equipment and rigging used for the specific purpose	12899
of creating with integrity a wellbore pathway to underground	12900
reservoirs;	12901
(III) Drilling and workover services used to work within a	12902
subsurface wellbore, and tangible personal property directly	12903
used in providing such services;	12904
(IV) Casing, tubulars, and float and centralizing	12905
equipment;	12906
(V) Trailers to which production equipment is attached;	12907
(VI) Well completion services, including cementing of	12908
casing, and tangible personal property directly used in	12909
providing such services;	12910
(VII) Wireline evaluation, mud logging, and perforation	12911
services, and tangible personal property directly used in	12912
providing such services;	12913
(VIII) Reservoir stimulation, hydraulic fracturing, and	12914
acidizing services, and tangible personal property directly used	12915
in providing such services, including all material pumped	12916
downhole;	12917
(IX) Pressure pumping equipment;	12918

(X) Artificial lift systems equipment;	12919
(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;	12920 12921 12922
(XII) Tangible personal property directly used to control production equipment.	12923 12924
(ii) For the purposes of division (B) (42) (q) of this section, the "thing transferred" does not include any of the following:	12925 12926 12927
(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;	12928 12929 12930
(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;	12931 12932 12933
(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;	12934 12935 12936
(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;	12937 12938 12939 12940
(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;	12941 12942 12943 12944
(VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;	12945 12946

(VII) Well site fencing, lighting, or security systems;	12947
(VIII) Communication devices or services;	12948
(IX) Office supplies;	12949
(X) Trailers used as offices or lodging;	12950
(XI) Motor vehicles of any kind;	12951
(XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;	12952 12953
(XIII) Tangible personal property used primarily as a safety device;	12954 12955
(XIV) Data collection or monitoring devices;	12956
(XV) Access ladders, stairs, or platforms attached to storage tanks.	12957 12958
The enumeration of tangible personal property in division (B) (42) (q) (ii) of this section is not intended to be exhaustive, and any tangible personal property not so enumerated shall not necessarily be construed to be a "thing transferred" for the purposes of division (B) (42) (q) of this section.	12959 12960 12961 12962 12963
The commissioner shall adopt and promulgate rules under sections 119.01 to 119.13 of the Revised Code that the commissioner deems necessary to administer division (B) (42) (q) of this section.	12964 12965 12966 12967
As used in division (B) (42) of this section, "thing" includes all transactions included in divisions (B) (3) (a), (b), and (e) of section 5739.01 of the Revised Code.	12968 12969 12970
(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents	12971 12972 12973

or wax, to the consumer for the consumer's use on the premises 12974
in washing, cleaning, or waxing a motor vehicle, provided no 12975
other personal property or personal service is provided as part 12976
of the transaction. 12977

(44) Sales of replacement and modification parts for 12978
engines, airframes, instruments, and interiors in, and paint 12979
for, aircraft used primarily in a fractional aircraft ownership 12980
program, and sales of services for the repair, modification, and 12981
maintenance of such aircraft, and machinery, equipment, and 12982
supplies primarily used to provide those services. 12983

(45) Sales of telecommunications service that is used 12984
directly and primarily to perform the functions of a call 12985
center. As used in this division, "call center" means any 12986
physical location where telephone calls are placed or received 12987
in high volume for the purpose of making sales, marketing, 12988
customer service, technical support, or other specialized 12989
business activity, and that employs at least fifty individuals 12990
that engage in call center activities on a full-time basis, or 12991
sufficient individuals to fill fifty full-time equivalent 12992
positions. 12993

(46) Sales by a telecommunications service vendor of 900 12994
service to a subscriber. This division does not apply to 12995
information services, ~~as defined in division (FF) of section~~ 12996
~~5739.01 of the Revised Code.~~ 12997

(47) Sales of value-added non-voice data service. This 12998
division does not apply to any similar service that is not 12999
otherwise a telecommunications service. 13000

~~(48) (a) Sales of machinery, equipment, and software to a~~ 13001
~~qualified direct selling entity for use in a warehouse or~~ 13002

~~distribution center primarily for storing, transporting, or 13003
otherwise handling inventory that is held for sale to 13004
independent salespersons who operate as direct sellers and that 13005
is held primarily for distribution outside this state; 13006~~

~~(b) As used in division (B) (48) (a) of this section: 13007~~

~~(i) "Direct seller" means a person selling consumer 13008
products to individuals for personal or household use and not 13009
from a fixed retail location, including selling such product at 13010
in home product demonstrations, parties, and other one on one 13011
selling. 13012~~

~~(ii) "Qualified direct selling entity" means an entity 13013
selling to direct sellers at the time the entity enters into a 13014
tax credit agreement with the tax credit authority pursuant to 13015
section 122.17 of the Revised Code, provided that the agreement 13016
was entered into on or after January 1, 2007. Neither 13017
contingencies relevant to the granting of, nor later 13018
developments with respect to, the tax credit shall impair the 13019
status of the qualified direct selling entity under division (B) 13020
(48) of this section after execution of the tax credit agreement 13021
by the tax credit authority. 13022~~

~~(c) Division (B) (48) of this section is limited to 13023
machinery, equipment, and software first stored, used, or 13024
consumed in this state within the period commencing June 24, 13025
2008, and ending on the date that is five years after that date 13026
Sales of feminine hygiene products. 13027~~

(49) Sales of materials, parts, equipment, or engines used 13028
in the repair or maintenance of aircraft or avionics systems of 13029
such aircraft, and sales of repair, remodeling, replacement, or 13030
maintenance services in this state performed on aircraft or on 13031

an aircraft's avionics, engine, or component materials or parts. 13032
As used in division (B) (49) of this section, "aircraft" means 13033
aircraft of more than six thousand pounds maximum certified 13034
takeoff weight or used exclusively in general aviation. 13035

(50) Sales of full flight simulators that are used for 13036
pilot or flight-crew training, sales of repair or replacement 13037
parts or components, and sales of repair or maintenance services 13038
for such full flight simulators. "Full flight simulator" means a 13039
replica of a specific type, or make, model, and series of 13040
aircraft cockpit. It includes the assemblage of equipment and 13041
computer programs necessary to represent aircraft operations in 13042
ground and flight conditions, a visual system providing an out- 13043
of-the-cockpit view, and a system that provides cues at least 13044
equivalent to those of a three-degree-of-freedom motion system, 13045
and has the full range of capabilities of the systems installed 13046
in the device as described in appendices A and B of part 60 of 13047
chapter 1 of title 14 of the Code of Federal Regulations. 13048

(51) Any transfer or lease of tangible personal property 13049
between the state and JobsOhio in accordance with section 13050
4313.02 of the Revised Code. 13051

(52) (a) Sales to a qualifying corporation. 13052

(b) As used in division (B) (52) of this section: 13053

(i) "Qualifying corporation" means a nonprofit corporation 13054
organized in this state that leases from an eligible county 13055
land, buildings, structures, fixtures, and improvements to the 13056
land that are part of or used in a public recreational facility 13057
used by a major league professional athletic team or a class A 13058
to class AAA minor league affiliate of a major league 13059
professional athletic team for a significant portion of the 13060

team's home schedule, provided the following apply: 13061

(I) The facility is leased from the eligible county 13062
pursuant to a lease that requires substantially all of the 13063
revenue from the operation of the business or activity conducted 13064
by the nonprofit corporation at the facility in excess of 13065
operating costs, capital expenditures, and reserves to be paid 13066
to the eligible county at least once per calendar year. 13067

(II) Upon dissolution and liquidation of the nonprofit 13068
corporation, all of its net assets are distributable to the 13069
board of commissioners of the eligible county from which the 13070
corporation leases the facility. 13071

(ii) "Eligible county" has the same meaning as in section 13072
307.695 of the Revised Code. 13073

(53) Sales to or by a cable service provider, video 13074
service provider, or radio or television broadcast station 13075
regulated by the federal government of cable service or 13076
programming, video service or programming, audio service or 13077
programming, or electronically transferred digital audiovisual 13078
or audio work. As used in division (B) (53) of this section, 13079
"cable service" and "cable service provider" have the same 13080
meanings as in section 1332.01 of the Revised Code, and "video 13081
service," "video service provider," and "video programming" have 13082
the same meanings as in section 1332.21 of the Revised Code. 13083

(54) Sales of a digital audio work electronically 13084
transferred for delivery through use of a machine, such as a 13085
juke box, that does all of the following: 13086

(a) Accepts direct payments to operate; 13087

(b) Automatically plays a selected digital audio work for 13088
a single play upon receipt of a payment described in division 13089

(B) (54) (a) of this section;	13090
(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment.	13091 13092
(55) (a) Sales of the following occurring on the first Friday of August and the following Saturday and Sunday of each year, beginning in 2018:	13093 13094 13095
(i) An item of clothing, the price of which is seventy-five dollars or less;	13096 13097
(ii) An item of school supplies, the price of which is twenty dollars or less;	13098 13099
(iii) An item of school instructional material, the price of which is twenty dollars or less.	13100 13101
(b) As used in division (B) (55) of this section:	13102
(i) "Clothing" means all human wearing apparel suitable for general use. "Clothing" includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; diapers, children and adult, including disposable diapers; earmuffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not include items purchased for use in a trade or business; clothing accessories or equipment; protective equipment; sports or recreational equipment; belt buckles sold separately; costume masks sold separately; patches and emblems	13103 13104 13105 13106 13107 13108 13109 13110 13111 13112 13113 13114 13115 13116 13117 13118

sold separately; sewing equipment and supplies including, but 13119
not limited to, knitting needles, patterns, pins, scissors, 13120
sewing machines, sewing needles, tape measures, and thimbles; 13121
and sewing materials that become part of "clothing" including, 13122
but not limited to, buttons, fabric, lace, thread, yarn, and 13123
zippers. 13124

(ii) "School supplies" means items commonly used by a 13125
student in a course of study. "School supplies" includes only 13126
the following items: binders; book bags; calculators; cellophane 13127
tape; blackboard chalk; compasses; composition books; crayons; 13128
erasers; folders, expandable, pocket, plastic, and manila; glue, 13129
paste, and paste sticks; highlighters; index cards; index card 13130
boxes; legal pads; lunch boxes; markers; notebooks; paper, 13131
loose-leaf ruled notebook paper, copy paper, graph paper, 13132
tracing paper, manila paper, colored paper, poster board, and 13133
construction paper; pencil boxes and other school supply boxes; 13134
pencil sharpeners; pencils; pens; protractors; rulers; scissors; 13135
and writing tablets. "School supplies" does not include any item 13136
purchased for use in a trade or business. 13137

(iii) "School instructional material" means written 13138
material commonly used by a student in a course of study as a 13139
reference and to learn the subject being taught. "School 13140
instructional material" includes only the following items: 13141
reference books, reference maps and globes, textbooks, and 13142
workbooks. "School instructional material" does not include any 13143
material purchased for use in a trade or business. 13144

(56) (a) Sales of diapers or incontinence underpads sold 13145
pursuant to a prescription, for the benefit of a medicaid 13146
recipient with a diagnosis of incontinence, and by a medicaid 13147
provider that maintains a valid provider agreement under section 13148

<u>5164.30 of the Revised Code with the department of medicaid,</u>	13149
provided that the medicaid program covers diapers or	13150
incontinence underpads as an incontinence garment.	13151
(b) As used in division (B) (56) (a) of this section:	13152
(i) "Diaper" means an absorbent garment worn by humans who	13153
are incapable of, or have difficulty, controlling their bladder	13154
or bowel movements.	13155
(ii) "Incontinence underpad" means an absorbent product,	13156
not worn on the body, designed to protect furniture or other	13157
tangible personal property from soiling or damage due to human	13158
incontinence.	13159
(57) Sales of feminine hygiene products.	13160
(C) For the purpose of the proper administration of this	13161
chapter, and to prevent the evasion of the tax, it is presumed	13162
that all sales made in this state are subject to the tax until	13163
the contrary is established.	13164
(D) The levy of this tax on retail sales of recreation and	13165
sports club service shall not prevent a municipal corporation	13166
from levying any tax on recreation and sports club dues or on	13167
any income generated by recreation and sports club dues.	13168
(E) The tax collected by the vendor from the consumer	13169
under this chapter is not part of the price, but is a tax	13170
collection for the benefit of the state, and of counties levying	13171
an additional sales tax pursuant to section 5739.021 or 5739.026	13172
of the Revised Code and of transit authorities levying an	13173
additional sales tax pursuant to section 5739.023 of the Revised	13174
Code. Except for the discount authorized under section 5739.12	13175
of the Revised Code and the effects of any rounding pursuant to	13176
section 5703.055 of the Revised Code, no person other than the	13177

state or such a county or transit authority shall derive any 13178
benefit from the collection or payment of the tax levied by this 13179
section or section 5739.021, 5739.023, or 5739.026 of the 13180
Revised Code. 13181

Sec. 5739.021. (A) For the purpose of providing additional 13182
general revenues for the county, supporting criminal and 13183
administrative justice services in the county, funding a 13184
regional transportation improvement project under section 13185
5595.06 of the Revised Code, or any combination of the 13186
foregoing, and to pay the expenses of administering such levy, 13187
any county may levy a tax at the rate of not more than one per 13188
cent upon every retail sale made in the county, except sales of 13189
watercraft and outboard motors required to be titled pursuant to 13190
Chapter 1548. of the Revised Code and sales of motor vehicles, 13191
and may increase the rate of an existing tax to not more than 13192
one per cent. The rate of any tax levied pursuant to this 13193
section shall be a multiple of one-twentieth of one per cent. 13194
The rate levied under this section in any county other than a 13195
county that adopted a charter under Article X, Section 3, Ohio 13196
Constitution, may exceed one per cent, but may not exceed one 13197
and one-half per cent minus the amount by which the rate levied 13198
under section 5739.023 of the Revised Code by the county transit 13199
authority exceeds one per cent. 13200

The tax shall be levied and the rate increased pursuant to 13201
a resolution of the board of county commissioners. The 13202
resolution shall state the purpose for which the tax is to be 13203
levied and the number of years for which the tax is to be 13204
levied, or that it is for a continuing period of time. If the 13205
tax is to be levied for the purpose of providing additional 13206
general revenues and for the purpose of supporting criminal and 13207
administrative justice services, the resolution shall state the 13208

rate or amount of the tax to be apportioned to each such 13209
purpose. The rate or amount may be different for each year the 13210
tax is to be levied, but the rates or amounts actually 13211
apportioned each year shall not be different from that stated in 13212
the resolution for that year. Any amount by which the rate of 13213
the tax exceeds one per cent shall be apportioned exclusively 13214
for the construction, acquisition, equipping, or repair of a 13215
detention facility in the county. 13216

If the resolution is adopted as an emergency measure 13217
necessary for the immediate preservation of the public peace, 13218
health, or safety, it must receive an affirmative vote of all of 13219
the members of the board of county commissioners and shall state 13220
the reasons for such necessity. The board shall deliver a 13221
certified copy of the resolution to the tax commissioner, not 13222
later than the sixty-fifth day prior to the date on which the 13223
tax is to become effective, which shall be the first day of the 13224
calendar quarter. A resolution proposing to levy a tax at a rate 13225
that would cause the rate levied under this section to exceed 13226
one per cent may not be adopted as an emergency measure. 13227

Prior to the adoption of any resolution under this 13228
section, the board of county commissioners shall conduct two 13229
public hearings on the resolution, the second hearing to be not 13230
less than three nor more than ten days after the first. Notice 13231
of the date, time, and place of the hearings shall be given by 13232
publication in a newspaper of general circulation in the county, 13233
or as provided in section 7.16 of the Revised Code, once a week 13234
on the same day of the week for two consecutive weeks, the 13235
second publication being not less than ten nor more than thirty 13236
days prior to the first hearing. 13237

Except as provided in division (B) (1) or (3) of this 13238

section, the resolution shall be subject to a referendum as 13239
provided in sections 305.31 to 305.41 of the Revised Code. 13240

If a petition for a referendum is filed, the county 13241
auditor with whom the petition was filed shall, within five 13242
days, notify the board of county commissioners and the tax 13243
commissioner of the filing of the petition by certified mail. If 13244
the board of elections with which the petition was filed 13245
declares the petition invalid, the board of elections, within 13246
five days, shall notify the board of county commissioners and 13247
the tax commissioner of that declaration by certified mail. If 13248
the petition is declared to be invalid, the effective date of 13249
the tax or increased rate of tax levied by this section shall be 13250
the first day of a calendar quarter following the expiration of 13251
sixty-five days from the date the commissioner receives notice 13252
from the board of elections that the petition is invalid. 13253

(B) (1) A resolution that is not adopted as an emergency 13254
measure may direct the board of elections to submit the question 13255
of levying the tax or increasing the rate of tax to the electors 13256
of the county at a special election held on the date specified 13257
by the board of county commissioners in the resolution, provided 13258
that the election occurs not less than ninety days after a 13259
certified copy of such resolution is transmitted to the board of 13260
elections and the election is not held in ~~February or~~ August of 13261
any year. A resolution proposing to levy a tax at a rate that 13262
would cause the rate levied under this section to exceed one per 13263
cent may not go into effect unless the question is submitted to 13264
electors under this division. Upon transmission of the 13265
resolution to the board of elections, the board of county 13266
commissioners shall notify the tax commissioner in writing of 13267
the levy question to be submitted to the electors. No resolution 13268
adopted under this division shall go into effect unless approved 13269

by a majority of those voting upon it, and, except as provided 13270
in division (B) (3) of this section, shall become effective on 13271
the first day of a calendar quarter following the expiration of 13272
sixty-five days from the date the tax commissioner receives 13273
notice from the board of elections of the affirmative vote. 13274

(2) A resolution that is adopted as an emergency measure 13275
shall go into effect as provided in division (A) of this 13276
section, but may direct the board of elections to submit the 13277
question of repealing the tax or increase in the rate of the tax 13278
to the electors of the county at the next general election in 13279
the county occurring not less than ninety days after a certified 13280
copy of the resolution is transmitted to the board of elections. 13281
Upon transmission of the resolution to the board of elections, 13282
the board of county commissioners shall notify the tax 13283
commissioner in writing of the levy question to be submitted to 13284
the electors. The ballot question shall be the same as that 13285
prescribed in section 5739.022 of the Revised Code. The board of 13286
elections shall notify the board of county commissioners and the 13287
tax commissioner of the result of the election immediately after 13288
the result has been declared. If a majority of the qualified 13289
electors voting on the question of repealing the tax or increase 13290
in the rate of the tax vote for repeal of the tax or repeal of 13291
the increase, the board of county commissioners, on the first 13292
day of a calendar quarter following the expiration of sixty-five 13293
days after the date the board and tax commissioner receive 13294
notice of the result of the election, shall, in the case of a 13295
repeal of the tax, cease to levy the tax, or, in the case of a 13296
repeal of an increase in the rate of the tax, cease to levy the 13297
increased rate and levy the tax at the rate at which it was 13298
imposed immediately prior to the increase in rate. 13299

(3) If a vendor makes a sale in this state by printed 13300

catalog and the consumer computed the tax on the sale based on 13301
local rates published in the catalog, any tax levied or repealed 13302
or rate changed under this section shall not apply to such a 13303
sale until the first day of a calendar quarter following the 13304
expiration of one hundred twenty days from the date of notice by 13305
the tax commissioner pursuant to division (H) of this section. 13306

(C) If a resolution is rejected at a referendum or if a 13307
resolution adopted after January 1, 1982, as an emergency 13308
measure is repealed by the electors pursuant to division (B) (2) 13309
of this section or section 5739.022 of the Revised Code, then 13310
for one year after the date of the election at which the 13311
resolution was rejected or repealed the board of county 13312
commissioners may not adopt any resolution authorized by this 13313
section as an emergency measure. 13314

(D) The board of county commissioners, at any time while a 13315
tax levied under this section is in effect, may by resolution 13316
reduce the rate at which the tax is levied to a lower rate 13317
authorized by this section. Any reduction in the rate at which 13318
the tax is levied shall be made effective on the first day of a 13319
calendar quarter next following the sixty-fifth day after a 13320
certified copy of the resolution is delivered to the tax 13321
commissioner. 13322

(E) The tax on every retail sale subject to a tax levied 13323
pursuant to this section shall be in addition to the tax levied 13324
by section 5739.02 of the Revised Code and any tax levied 13325
pursuant to section 5739.023 or 5739.026 of the Revised Code. 13326

A county that levies a tax pursuant to this section shall 13327
levy a tax at the same rate pursuant to section 5741.021 of the 13328
Revised Code. 13329

The additional tax levied by the county shall be collected 13330
pursuant to section 5739.025 of the Revised Code. If the 13331
additional tax or some portion thereof is levied for the purpose 13332
of criminal and administrative justice services or specifically 13333
for the purpose of constructing, acquiring, equipping, or 13334
repairing a detention facility, the revenue from the tax, or the 13335
amount or rate apportioned to that purpose, shall be credited to 13336
one or more special funds created in the county treasury for 13337
receipt of that revenue. 13338

Any tax levied pursuant to this section is subject to the 13339
exemptions provided in section 5739.02 of the Revised Code and 13340
in addition shall not be applicable to sales not within the 13341
taxing power of a county under the Constitution of the United 13342
States or the Ohio Constitution. 13343

(F) For purposes of this section, a copy of a resolution 13344
is "certified" when it contains a written statement attesting 13345
that the copy is a true and exact reproduction of the original 13346
resolution. 13347

(G) If a board of commissioners intends to adopt a 13348
resolution to levy a tax in whole or in part for the purpose of 13349
criminal and administrative justice services, the board shall 13350
prepare and make available at the first public hearing at which 13351
the resolution is considered a statement containing the 13352
following information: 13353

(1) For each of the two preceding fiscal years, the amount 13354
of expenditures made by the county from the county general fund 13355
for the purpose of criminal and administrative justice services; 13356

(2) For the fiscal year in which the resolution is 13357
adopted, the board's estimate of the amount of expenditures to 13358

be made by the county from the county general fund for the 13359
purpose of criminal and administrative justice services; 13360

(3) For each of the two fiscal years after the fiscal year 13361
in which the resolution is adopted, the board's preliminary plan 13362
for expenditures to be made from the county general fund for the 13363
purpose of criminal and administrative justice services, both 13364
under the assumption that the tax will be imposed for that 13365
purpose and under the assumption that the tax would not be 13366
imposed for that purpose, and for expenditures to be made from 13367
the special fund created under division (E) of this section 13368
under the assumption that the tax will be imposed for that 13369
purpose. 13370

The board shall prepare the statement and the preliminary 13371
plan using the best information available to the board at the 13372
time the statement is prepared. Neither the statement nor the 13373
preliminary plan shall be used as a basis to challenge the 13374
validity of the tax in any court of competent jurisdiction, nor 13375
shall the statement or preliminary plan limit the authority of 13376
the board to appropriate, pursuant to section 5705.38 of the 13377
Revised Code, an amount different from that specified in the 13378
preliminary plan. 13379

(H) Upon receipt from a board of county commissioners of a 13380
certified copy of a resolution required by division (A) or (D) 13381
of this section, or from the board of elections of a notice of 13382
the results of an election required by division (A) or (B)(1) or 13383
(2) of this section, the tax commissioner shall provide notice 13384
of a tax rate change in a manner that is reasonably accessible 13385
to all affected vendors. The commissioner shall provide this 13386
notice at least sixty days prior to the effective date of the 13387
rate change. The commissioner, by rule, may establish the method 13388

by which notice will be provided.	13389
(I) As used in this section:	13390
(1) "Criminal and administrative justice services" means	13391
the exercise by the county sheriff of all powers and duties	13392
vested in that office by law; the exercise by the county	13393
prosecuting attorney of all powers and duties vested in that	13394
office by law; the exercise by any court in the county of all	13395
powers and duties vested in that court; the exercise by the	13396
clerk of the court of common pleas, any clerk of a municipal	13397
court having jurisdiction throughout the county, or the clerk of	13398
any county court of all powers and duties vested in the clerk by	13399
law except, in the case of the clerk of the court of common	13400
pleas, the titling of motor vehicles or watercraft pursuant to	13401
Chapter 1548. or 4505. of the Revised Code; the exercise by the	13402
county coroner of all powers and duties vested in that office by	13403
law; making payments to any other public agency or a private,	13404
nonprofit agency, the purposes of which in the county include	13405
the diversion, adjudication, detention, or rehabilitation of	13406
criminals or juvenile offenders; the operation and maintenance	13407
of any detention facility; and the construction, acquisition,	13408
equipping, or repair of such a detention facility.	13409
(2) "Detention facility" has the same meaning as in	13410
section 2921.01 of the Revised Code.	13411
(3) "Construction, acquisition, equipping, or repair" of a	13412
detention facility includes the payment of any debt charges	13413
incurred in the issuance of securities pursuant to Chapter 133.	13414
of the Revised Code for the purpose of constructing, acquiring,	13415
equipping, or repairing such a facility.	13416
Sec. 5739.028. As used in this section "sports facility"	13417

and "constructing" have the same meanings as in division (A) (8) 13418
of section 5739.026 of the Revised Code. 13419

This section applies only to taxes levied pursuant to 13420
sections 5739.023 and 5741.022 of the Revised Code by a regional 13421
transit authority created under section 306.31 of the Revised 13422
Code for a continuing period of time and at an aggregate rate, 13423
~~on the effective date of this section July 19, 1995,~~ greater 13424
than one-half of one per cent on every retail sale made in the 13425
territory of the transit authority. 13426

The board of county commissioners of the most populous 13427
county in the territory of a regional transit authority levying 13428
a tax to which this section applies may adopt a resolution not 13429
later than one hundred eighty days after ~~the effective date of~~ 13430
~~this section July 19, 1995,~~ proposing to reduce the rate of such 13431
a tax and to increase by the same extent the rate of tax levied 13432
under sections 5739.026 and 5741.023 of the Revised Code for the 13433
purpose of constructing or renovating a sports facility. The 13434
total reduction in the rate of taxes levied by a transit 13435
authority and the increase in the rate of tax levied for the 13436
purpose of constructing or renovating a sports facility shall 13437
not exceed one-tenth of one per cent upon retail sales made in 13438
the territory of the transit authority; provided, the amount of 13439
taxes received by the county for the purpose of constructing or 13440
renovating a sports facility under this section shall not exceed 13441
four million five hundred thousand dollars in any calendar year. 13442
Any amounts received by a county in a calendar year in excess of 13443
four million five hundred thousand dollars pursuant to this 13444
section shall be paid to the transit authority by the county 13445
within forty-five days following receipt by the county. 13446

The resolution shall specify that the rate of tax levied 13447

by the transit authority will be reduced and that a tax will be 13448
levied at the same rate for the purpose of constructing or 13449
renovating a sports facility; the rate by which the tax levied 13450
by the transit authority will be reduced and by which the tax 13451
levied for the purpose of constructing or renovating a sports 13452
facility will be increased; the date the rates levied for those 13453
purposes will be reduced and increased, respectively; and the 13454
number of years the rate levied by a transit authority will be 13455
reduced and the rate levied for constructing or renovating a 13456
sports facility will be increased. The date the rate levied by 13457
the transit authority will be reduced and the rate levied for 13458
the purpose of constructing or renovating a sports facility will 13459
be increased shall not be earlier than the first day of the 13460
month that begins at least sixty days after the day the election 13461
on the question is conducted unless the board of county 13462
commissioners levies a tax under one or more of sections 13463
307.697, 4301.421, 5743.024, and 5743.323 of the Revised Code on 13464
~~the effective date of this section~~ July 19, 1995, in which case 13465
the date the rate levied by the transit authority will be 13466
reduced and the rate levied for the purpose of constructing or 13467
renovating a sports facility will be increased shall not be 13468
earlier than the first day following the latest day on which any 13469
of the taxes levied under one of those sections on ~~the~~ 13470
~~effective date of this amendment~~ July 19, 1995, may be levied as 13471
prescribed by the resolution levying that tax. The number of 13472
years the rate of the existing tax may be reduced and the rate 13473
of tax may be levied for constructing or renovating a sports 13474
facility may be any number of years as specified in the 13475
resolution, or for a continuing period of time if so specified 13476
in the resolution. 13477

Before a resolution adopted under this section may take 13478

effect, the board of county commissioners shall submit the 13479
resolution to the approval of the electors of the county, and 13480
the resolution shall be approved by a majority of voters voting 13481
on the question. Upon adoption of the resolution, the board of 13482
county commissioners shall certify a copy of the resolution to 13483
the board of elections of the county and to the tax 13484
commissioner, and the board of elections shall submit the 13485
question at a special election held on the date specified by the 13486
board of county commissioners in the resolution, provided that 13487
the election occurs not less than seventy-five days after the 13488
resolution is certified to the board of elections and the 13489
election is not held in ~~February or~~ August of any year. The 13490
board of county commissioners shall certify the copy of the 13491
resolution to the board of elections in the manner prescribed 13492
under section 3505.071 of the Revised Code. The board of 13493
elections shall certify the results of the election to the board 13494
of county commissioners and to the tax commissioner. If the 13495
question is approved by a majority of electors voting on the 13496
question, the rate of tax imposed under sections 5739.023 and 13497
5741.022 of the Revised Code shall be reduced, and the rate of 13498
tax levied for constructing or renovating a sports facility 13499
under sections 5739.026 and 5741.023 of the Revised Code shall 13500
be increased by the same amount, on the date specified in the 13501
resolution. 13502

If revenue from a tax levied under sections 5739.023 and 13503
5741.022 of the Revised Code and subject to reduction under this 13504
section is pledged to the payment of bonds, notes, or notes in 13505
anticipation of bonds, the board of county commissioners 13506
adopting a resolution under this section shall provide 13507
sufficient revenue from the tax for the repayment of debt 13508
charges on those bonds or notes, unless an adequate substitute 13509

for payment of those charges is provided by the transit 13510
authority. 13511

Sec. 5739.03. (A) Except as provided in section 5739.05 or 13512
section 5739.051 of the Revised Code, the tax imposed by or 13513
pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of 13514
the Revised Code shall be paid by the consumer to the vendor, 13515
and each vendor shall collect from the consumer, as a trustee 13516
for the state of Ohio, the full and exact amount of the tax 13517
payable on each taxable sale, in the manner and at the times 13518
provided as follows: 13519

(1) If the price is, at or prior to the provision of the 13520
service or the delivery of possession of the thing sold to the 13521
consumer, paid in currency passed from hand to hand by the 13522
consumer or the consumer's agent to the vendor or the vendor's 13523
agent, the vendor or the vendor's agent shall collect the tax 13524
with and at the same time as the price; 13525

(2) If the price is otherwise paid or to be paid, the 13526
vendor or the vendor's agent shall, at or prior to the provision 13527
of the service or the delivery of possession of the thing sold 13528
to the consumer, charge the tax imposed by or pursuant to 13529
section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised 13530
Code to the account of the consumer, which amount shall be 13531
collected by the vendor from the consumer in addition to the 13532
price. Such sale shall be reported on and the amount of the tax 13533
applicable thereto shall be remitted with the return for the 13534
period in which the sale is made, and the amount of the tax 13535
shall become a legal charge in favor of the vendor and against 13536
the consumer. 13537

(B) (1) (a) If any sale is claimed to be exempt under 13538
division (E) of section 5739.01 of the Revised Code or under 13539

section 5739.02 of the Revised Code, with the exception of 13540
divisions (B) (1) to (11), (28), (48), or (55), ~~or (57)~~ of 13541
section 5739.02 of the Revised Code, or if the consumer claims 13542
the transaction is not a taxable sale due to one or more of the 13543
exclusions provided under divisions (JJ) (1) to (5) of section 13544
5739.01 of the Revised Code, the consumer must provide to the 13545
vendor, and the vendor must obtain from the consumer, a 13546
certificate specifying the reason that the sale is not legally 13547
subject to the tax. The certificate shall be in such form, and 13548
shall be provided either in a hard copy form or electronic form, 13549
as the tax commissioner prescribes. 13550

(b) A vendor that obtains a fully completed exemption 13551
certificate from a consumer is relieved of liability for 13552
collecting and remitting tax on any sale covered by that 13553
certificate. If it is determined the exemption was improperly 13554
claimed, the consumer shall be liable for any tax due on that 13555
sale under section 5739.02, 5739.021, 5739.023, or 5739.026 or 13556
Chapter 5741. of the Revised Code. Relief under this division 13557
from liability does not apply to any of the following: 13558

(i) A vendor that fraudulently fails to collect tax; 13559

(ii) A vendor that solicits consumers to participate in 13560
the unlawful claim of an exemption; 13561

(iii) A vendor that accepts an exemption certificate from 13562
a consumer that claims an exemption based on who purchases or 13563
who sells property or a service, when the subject of the 13564
transaction sought to be covered by the exemption certificate is 13565
actually received by the consumer at a location operated by the 13566
vendor in this state, and this state has posted to its web site 13567
an exemption certificate form that clearly and affirmatively 13568
indicates that the claimed exemption is not available in this 13569

state; 13570

(iv) A vendor that accepts an exemption certificate from a 13571
consumer who claims a multiple points of use exemption under 13572
division (D) of section 5739.033 of the Revised Code, if the 13573
item purchased is tangible personal property, other than 13574
prewritten computer software. 13575

(2) The vendor shall maintain records, including exemption 13576
certificates, of all sales on which a consumer has claimed an 13577
exemption, and provide them to the tax commissioner on request. 13578

(3) The tax commissioner may establish an identification 13579
system whereby the commissioner issues an identification number 13580
to a consumer that is exempt from payment of the tax. The 13581
consumer must present the number to the vendor, if any sale is 13582
claimed to be exempt as provided in this section. 13583

(4) If no certificate is provided or obtained within 13584
ninety days after the date on which such sale is consummated, it 13585
shall be presumed that the tax applies. Failure to have so 13586
provided or obtained a certificate shall not preclude a vendor, 13587
within one hundred twenty days after the tax commissioner gives 13588
written notice of intent to levy an assessment, from either 13589
establishing that the sale is not subject to the tax, or 13590
obtaining, in good faith, a fully completed exemption 13591
certificate. 13592

(5) Certificates need not be obtained nor provided where 13593
the identity of the consumer is such that the transaction is 13594
never subject to the tax imposed or where the item of tangible 13595
personal property sold or the service provided is never subject 13596
to the tax imposed, regardless of use, or when the sale is in 13597
interstate commerce. 13598

(6) If a transaction is claimed to be exempt under 13599
division (B) (13) of section 5739.02 of the Revised Code, the 13600
contractor shall obtain certification of the claimed exemption 13601
from the contractee. This certification shall be in addition to 13602
an exemption certificate provided by the contractor to the 13603
vendor. A contractee that provides a certification under this 13604
division shall be deemed to be the consumer of all items 13605
purchased by the contractor under the claim of exemption, if it 13606
is subsequently determined that the exemption is not properly 13607
claimed. The certification shall be in such form as the tax 13608
commissioner prescribes. 13609

(C) As used in this division, "contractee" means a person 13610
who seeks to enter or enters into a contract or agreement with a 13611
contractor or vendor for the construction of real property or 13612
for the sale and installation onto real property of tangible 13613
personal property. 13614

Any contractor or vendor may request from any contractee a 13615
certification of what portion of the property to be transferred 13616
under such contract or agreement is to be incorporated into the 13617
realty and what portion will retain its status as tangible 13618
personal property after installation is completed. The 13619
contractor or vendor shall request the certification by 13620
certified mail delivered to the contractee, return receipt 13621
requested. Upon receipt of such request and prior to entering 13622
into the contract or agreement, the contractee shall provide to 13623
the contractor or vendor a certification sufficiently detailed 13624
to enable the contractor or vendor to ascertain the resulting 13625
classification of all materials purchased or fabricated by the 13626
contractor or vendor and transferred to the contractee. This 13627
requirement applies to a contractee regardless of whether the 13628
contractee holds a direct payment permit under section 5739.031 13629

of the Revised Code or provides to the contractor or vendor an exemption certificate as provided under this section. 13630
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For the purposes of the taxes levied by this chapter and Chapter 5741. of the Revised Code, the contractor or vendor may in good faith rely on the contractee's certification. 13632
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13634
Notwithstanding division (B) of section 5739.01 of the Revised Code, if the tax commissioner determines that certain property certified by the contractee as tangible personal property pursuant to this division is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the contractor or vendor shall be excused from any liability on those materials. 13635
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If a contractee fails to provide such certification upon the request of the contractor or vendor, the contractor or vendor shall comply with the provisions of this chapter and Chapter 5741. of the Revised Code without the certification. If the tax commissioner determines that such compliance has been performed in good faith and that certain property treated as tangible personal property by the contractor or vendor is, in fact, real property, the contractee shall be considered to be the consumer of all materials so incorporated into that real property and shall be liable for the applicable tax, and the construction contractor or vendor shall be excused from any liability on those materials. 13643
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This division does not apply to any contract or agreement where the tax commissioner determines as a fact that a certification under this division was made solely on the decision or advice of the contractor or vendor. 13655
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(D) Notwithstanding division (B) of section 5739.01 of the 13659

Revised Code, whenever the total rate of tax imposed under this 13660
chapter is increased after the date after a construction 13661
contract is entered into, the contractee shall reimburse the 13662
construction contractor for any additional tax paid on tangible 13663
property consumed or services received pursuant to the contract. 13664

(E) A vendor who files a petition for reassessment 13665
contesting the assessment of tax on sales for which the vendor 13666
obtained no valid exemption certificates and for which the 13667
vendor failed to establish that the sales were properly not 13668
subject to the tax during the one-hundred-twenty-day period 13669
allowed under division (B) of this section, may present to the 13670
tax commissioner additional evidence to prove that the sales 13671
were properly subject to a claim of exception or exemption. The 13672
vendor shall file such evidence within ninety days of the 13673
receipt by the vendor of the notice of assessment, except that, 13674
upon application and for reasonable cause, the period for 13675
submitting such evidence shall be extended thirty days. 13676

The commissioner shall consider such additional evidence 13677
in reaching the final determination on the assessment and 13678
petition for reassessment. 13679

(F) Whenever a vendor refunds the price, minus any 13680
separately stated delivery charge, of an item of tangible 13681
personal property on which the tax imposed under this chapter 13682
has been paid, the vendor shall also refund the amount of tax 13683
paid, minus the amount of tax attributable to the delivery 13684
charge. 13685

Sec. 5739.034. (A) As used in this section: 13686

(1) "Air-to-ground radiotelephone service" means a radio 13687
service, as defined in 47 C.F.R. 22.99, in which common carriers 13688

are authorized to offer and provide radio telecommunications 13689
service for hire to subscribers in aircraft. 13690

(2) "Call-by-call basis" means any method of charging for 13691
telecommunications services where the price is measured by 13692
individual calls. 13693

(3) "Customer" means the person or entity that contracts 13694
with a seller of telecommunications service. If the end user of 13695
telecommunications service is not the contracting party, the end 13696
user of the telecommunications service is the customer of the 13697
telecommunications service. "Customer" does not include a 13698
reseller of telecommunications service or of mobile 13699
telecommunications service of a serving carrier under an 13700
agreement to serve the customer outside the home service 13701
provider's licensed service area. 13702

(4) "End user" means the person who utilizes the 13703
telecommunications service. In the case of a person other than 13704
an individual, "end user" means the individual who utilizes the 13705
service on behalf of the person. 13706

(5) "Home service provider" has the same meaning as in the 13707
"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 13708
114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 13709

(6) "Place of primary use" means the street address 13710
representative of where the customer's use of the 13711
telecommunications service primarily occurs, which must be the 13712
residential street address or the primary business street 13713
address of the customer. In the case of mobile 13714
telecommunications services, "place of primary use" must be 13715
within the licensed service area of the home service provider. 13716

(7) "Post-paid calling service" means the 13717

telecommunications service obtained by making a payment on a 13718
call-by-call basis either through the use of a credit card or 13719
payment mechanism such as a bank card, travel card, credit card, 13720
or debit card, or by charge made to a telephone number that is 13721
not associated with the origination or termination of the 13722
telecommunications service. "Post-paid calling service" includes 13723
a telecommunications service, except a prepaid wireless calling 13724
service, that would be a prepaid calling service, but for the 13725
fact that it is not exclusively a telecommunications service. 13726

~~(8) "Prepaid calling service" and "prepaid wireless-~~ 13727
~~calling service" have the same meanings as in section 5739.01 of~~ 13728
~~the Revised Code.~~ 13729

~~(9)~~ "Service address" means: 13730

(a) The location of the telecommunications equipment to 13731
which a customer's call is charged and from which the call 13732
originates or terminates, regardless of where the call is billed 13733
or paid. 13734

(b) If the location in division (A) ~~(9)~~ (8) (a) of this 13735
section is not known, "service address" means the origination 13736
point of the signal of the telecommunications service first 13737
identified by either the seller's telecommunications system or 13738
in information received by the seller from its service provider, 13739
where the system used to transport such signals is not that of 13740
the seller. 13741

(c) If the locations in divisions (A) ~~(9)~~ (8) (a) and (b) of 13742
this section are not known, "service address" means the location 13743
of the customer's place of primary use. 13744

~~(10)~~ (9) "Private communication service" means a 13745
telecommunications service that entitles a customer to exclusive 13746

or priority use of a communications channel or group of channels 13747
between or among termination points, regardless of the manner in 13748
which the channel or channels are connected, and includes 13749
switching capacity, extension lines, stations, and any other 13750
associated services that are provided in connection with the use 13751
of such channel or channels. 13752

(B) The amount of tax due pursuant to sections 5739.02, 13753
5739.021, 5739.023, and 5739.026 of the Revised Code on sales of 13754
telecommunications service, information service, or mobile 13755
telecommunications service, is the sum of the taxes imposed 13756
pursuant to those sections at the sourcing location of the sale 13757
as determined under this section. 13758

(C) Except for the telecommunications services described 13759
in division (E) of this section, the sale of telecommunications 13760
service sold on a call-by-call basis shall be sourced to each 13761
level of taxing jurisdiction where the call originates and 13762
terminates in that jurisdiction, or each level of taxing 13763
jurisdiction where the call either originates or terminates and 13764
in which the service address also is located. 13765

(D) Except for the telecommunications services described 13766
in division (E) of this section, a sale of telecommunications 13767
services sold on a basis other than a call-by-call basis shall 13768
be sourced to the customer's place of primary use. 13769

(E) The sale of the following telecommunications services 13770
shall be sourced to each level of taxing jurisdiction, as 13771
follows: 13772

(1) A sale of mobile telecommunications service, other 13773
than air-to-ground radiotelephone service and prepaid calling 13774
service, shall be sourced to the customer's place of primary use 13775

as required by the Mobile Telecommunications Sourcing Act. 13776

(2) A sale of post-paid calling service shall be sourced 13777
to the origination point of the telecommunications signal as 13778
first identified by the service provider's telecommunications 13779
system, or information received by the seller from its service 13780
provider, where the system used to transport such signals is not 13781
that of the seller. 13782

(3) A sale of prepaid calling service or prepaid wireless 13783
calling service shall be sourced under division (C) of section 13784
5739.033 of the Revised Code. But in the case of prepaid 13785
wireless calling service, in lieu of sourcing the sale of the 13786
service under division (C) (5) of section 5739.033 of the Revised 13787
Code, the service provider may elect to source the sale to the 13788
location associated with the mobile telephone number. 13789

(4) A sale of a private communication service shall be 13790
sourced as follows: 13791

(a) Service for a separate charge related to a customer 13792
channel termination point shall be sourced to each level of 13793
jurisdiction in which the customer channel termination point is 13794
located; 13795

(b) Service where all customer channel termination points 13796
are located entirely within one jurisdiction or level of 13797
jurisdiction shall be sourced in the jurisdiction in which the 13798
customer channel termination points are located; 13799

(c) Service for segments of a channel between two customer 13800
channel termination points located in different jurisdictions 13801
and which segments of a channel are separately charged shall be 13802
sourced fifty per cent in each level of jurisdiction in which 13803
the customer channel termination points are located; 13804

(d) Service for segments of a channel located in more than 13805
one jurisdiction or level of jurisdiction and which segments are 13806
not separately billed shall be sourced in each jurisdiction 13807
based on the percentage determined by dividing the number of 13808
customer channel termination points in the jurisdiction by the 13809
total number of customer channel termination points. 13810

~~Sec. 5739.08. The levy of an excise tax on transactions by~~ 13811
~~which lodging by a hotel is or is to be furnished to transient~~ 13812
~~guests pursuant to section 5739.02 and division (B) of section~~ 13813
~~5739.01 of the Revised Code does not prevent any of the~~ 13814
~~following:~~ 13815

(A) A municipal corporation or township ~~from levying~~ may 13816
levy an excise tax for any lawful purpose not to exceed three 13817
per cent on transactions by which lodging by a hotel is or is to 13818
be furnished to transient guests in addition to the tax levied 13819
by section 5739.02 of the Revised Code. If a municipal 13820
corporation or township repeals a tax imposed under division (A) 13821
of this section, and a county in which the municipal corporation 13822
or township has territory has a tax imposed under division ~~(C)~~ 13823
(M) of section 5739.09 of the Revised Code in effect, the 13824
municipal corporation or township may not reimpose its tax as 13825
long as that county tax remains in effect. A municipal 13826
corporation or township in which a tax is levied under division 13827
(B) (2) of section 351.021 of the Revised Code may not increase 13828
the rate of its tax levied under division (A) of this section to 13829
any rate that would cause the total taxes levied under both of 13830
those divisions to exceed three per cent on any lodging 13831
transaction within the municipal corporation or township. 13832

~~(B) A municipal corporation or a township from levying an~~ 13833
~~additional excise tax not to exceed three per cent on such~~ 13834

~~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.~~ 13835
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~~(C) A county from levying an excise tax pursuant to division (A) of section 5739.09 of the Revised Code;~~ 13838
13839

~~(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.~~ 13840
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~~(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;~~ 13844
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~~(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.~~ 13848
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~~(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.~~ 13853
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The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A) of section 5739.09 of the Revised Code may, by ordinance or resolution, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to 13857
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be furnished to transient guests. The legislative authority of 13864
the municipal corporation or the board of trustees of the 13865
township shall deposit at least fifty per cent of the revenue 13866
from the tax levied pursuant to this division into a separate 13867
fund, which shall be spent solely to make contributions to 13868
convention and visitors' bureaus operating within the county in 13869
which the municipal corporation or township is wholly or partly 13870
located, and the balance of that revenue shall be deposited in 13871
the general fund. The municipal corporation or township shall 13872
establish all regulations necessary to provide for the 13873
administration and allocation of the tax. The regulations may 13874
prescribe the time for payment of the tax, and may provide for 13875
the imposition of a penalty or interest, or both, for late 13876
payments, provided that the penalty does not exceed ten per cent 13877
of the amount of tax due, and the rate at which interest accrues 13878
does not exceed the rate per annum prescribed pursuant to 13879
section 5703.47 of the Revised Code. The levy of a tax under 13880
this division is in addition to any tax imposed on the same 13881
transaction by a municipal corporation or a township under 13882
division (A) of this section. 13883

(C) (1) As used in division (C) of this section, "cost" has 13884
the same meaning as in section 351.01 of the Revised Code, and 13885
"convention center" has the same meaning as in section 307.695 13886
of the Revised Code. 13887

(2) The legislative authority of the most populous 13888
municipal corporation located wholly or partly in a county in 13889
which the board of county commissioners has levied a tax under 13890
division (D) of section 5739.09 of the Revised Code may amend, 13891
on or before September 30, 2002, that municipal corporation's 13892
ordinance or resolution that levies an excise tax on 13893
transactions by which lodging by a hotel is or is to be 13894

furnished to transient guests, to provide for all of the 13895
following: 13896

(a) That the rate of the tax shall be increased by not 13897
more than an additional one per cent on each transaction; 13898

(b) That all of the revenue from the increase in rate 13899
shall be pledged and contributed to a convention facilities 13900
authority established by the board of county commissioners under 13901
Chapter 351. of the Revised Code on or before May 15, 2002, and 13902
be used to pay costs of constructing, expanding, maintaining, 13903
operating, or promoting a convention center in the county, 13904
including paying bonds, or notes issued in anticipation of 13905
bonds, as provided by that chapter; 13906

(c) That the increase in rate shall not be subject to 13907
diminution by initiative or referendum or by law while any 13908
bonds, or notes in anticipation of bonds, issued by the 13909
authority under Chapter 351. of the Revised Code to which the 13910
revenue is pledged, remain outstanding in accordance with their 13911
terms, unless provision is made by law, by the board of county 13912
commissioners, or by the legislative authority, for an adequate 13913
substitute therefor that is satisfactory to the trustee if a 13914
trust agreement secures the bonds. 13915

(3) The legislative authority of a municipal corporation 13916
that, pursuant to division (C) (2) of this section, has amended 13917
its ordinance or resolution to increase the rate of the tax 13918
authorized by division (B) of this section may further amend the 13919
ordinance or resolution to provide that the revenue referred to 13920
in division (C) (2) (b) of this section shall be pledged and 13921
contributed both to a convention facilities authority to pay the 13922
costs of constructing, expanding, maintaining, or operating one 13923
or more convention centers in the county, including paying 13924

bonds, or notes issued in anticipation of bonds, as provided in 13925
Chapter 351. of the Revised Code, and to a convention and 13926
visitors' bureau to pay the costs of promoting one or more 13927
convention centers in the county. 13928

(D) As used in division (D) of this section, "eligible 13929
municipal corporation" means a municipal corporation that, on 13930
September 29, 2017, levied a tax under division (B) of this 13931
section at a rate of three per cent and that is located in a 13932
county that, on that date, levied a tax under division (A) of 13933
section 5739.09 of the Revised Code at a rate of three per cent 13934
and that has, according to the most recent federal decennial 13935
census, a population exceeding three hundred thousand but not 13936
greater than three hundred fifty thousand. 13937

The legislative authority of an eligible municipal 13938
corporation may amend, on or before December 31, 2017, that 13939
municipal corporation's ordinance or resolution that levies an 13940
excise tax on transactions by which lodging by a hotel is or is 13941
to be furnished to transient guests, to provide for the 13942
following: 13943

(1) That the rate of the tax shall be increased by not 13944
more than an additional three per cent on each transaction; 13945

(2) That all of the revenue from the increase in rate 13946
shall be used by the municipal corporation for economic 13947
development and tourism-related purposes. 13948

Sec. 5739.09. (A) (1) A board of county commissioners may, 13949
by resolution adopted by a majority of the members of the board, 13950
levy an excise tax not to exceed three per cent on transactions 13951
by which lodging by a hotel is or is to be furnished to 13952
transient guests. The board shall establish all regulations 13953

necessary to provide for the administration and allocation of 13954
the tax. The regulations may prescribe the time for payment of 13955
the tax, and may provide for the imposition of a penalty or 13956
interest, or both, for late payments, provided that the penalty 13957
does not exceed ten per cent of the amount of tax due, and the 13958
rate at which interest accrues does not exceed the rate per 13959
annum prescribed pursuant to section 5703.47 of the Revised 13960
Code. Except as otherwise provided in ~~divisions (A) (2), (3),~~ 13961
~~(4), (5), (6), (7), (8), (9), (10), (11), and (12)~~ of this 13962
section, the regulations shall provide, after deducting the real 13963
and actual costs of administering the tax, for the return to 13964
each municipal corporation or township that does not levy an 13965
excise tax on the transactions, a uniform percentage of the tax 13966
collected in the municipal corporation or in the unincorporated 13967
portion of the township from each transaction, not to exceed 13968
thirty-three and one-third per cent. ~~The~~ Except as provided in 13969
this section, the remainder of the revenue arising from the tax 13970
shall be deposited in a separate fund and shall be spent solely 13971
to make contributions to the convention and visitors' bureau 13972
operating within the county, including a pledge and contribution 13973
of any portion of the remainder pursuant to an agreement 13974
authorized by section 307.678 or 307.695 of the Revised Code, ~~—~~ 13975
~~provided that if~~ . 13976

(2) If the board of county commissioners of an eligible 13977
county as defined in section 307.678 or 307.695 of the Revised 13978
Code adopts a resolution amending a resolution levying a tax 13979
under ~~this~~ division (A) of this section to provide that revenue 13980
from the tax shall be used by the board as described in either 13981
division (D) of section 307.678 or division (H) of section 13982
307.695 of the Revised Code, the remainder of the revenue shall 13983
be used as described in the resolution making that amendment. 13984

~~Except~~ 13985

(3) Except as provided in division ~~(A) (2), (3), (4), (5),~~ 13986
~~(6), (7), (8), (9), (10), or (11)~~ (B), (C), (D), (E), (F), (G), 13987
(H), (I), (J), (K), or (H) (Q) of this section, on and after May 13988
10, 1994, a board of county commissioners may not levy an excise 13989
tax pursuant to ~~this~~ division (A) of this section in any 13990
municipal corporation or township located wholly or partly 13991
within the county that has in effect an ordinance or resolution 13992
levying an excise tax pursuant to division (B) of ~~this~~ section 13993
5739.08 of the Revised Code. The 13994

(4) The board of a county that has levied a tax under 13995
division ~~(C) (M)~~ of this section may, by resolution adopted 13996
within ninety days after July 15, 1985, by a majority of the 13997
members of the board, amend the resolution levying a tax under 13998
~~this~~ division (A) of this section to provide for a portion of 13999
that tax to be pledged and contributed in accordance with an 14000
agreement entered into under section 307.695 of the Revised 14001
Code. A tax, any revenue from which is pledged pursuant to such 14002
an agreement, shall remain in effect at the rate at which it is 14003
imposed for the duration of the period for which the revenue 14004
from the tax has been so pledged. 14005

(5) The board of county commissioners of an eligible 14006
county as defined in section 307.695 of the Revised Code may, by 14007
resolution adopted by a majority of the members of the board, 14008
amend a resolution levying a tax under ~~this~~ division (A) of this 14009
section to provide that the revenue from the tax shall be used 14010
by the board as described in division (H) of section 307.695 of 14011
the Revised Code, in which case the tax shall remain in effect 14012
at the rate at which it was imposed for the duration of any 14013
agreement entered into by the board under section 307.695 of the 14014

Revised Code, the duration during which any securities issued by 14015
the board under that section are outstanding, or the duration of 14016
the period during which the board owns a project as defined in 14017
section 307.695 of the Revised Code, whichever duration is 14018
longest. 14019

(6) The board of county commissioners of an eligible 14020
county as defined in section 307.678 of the Revised Code may, by 14021
resolution, amend a resolution levying a tax under ~~this~~ division 14022
(A) of this section to provide that revenue from the tax, not to 14023
exceed five hundred thousand dollars each year, may be used as 14024
described in division (E) of section 307.678 of the Revised 14025
Code. 14026

(7) Notwithstanding division ~~(A)(1)~~ (A) of this section, 14027
the board of county commissioners of a county described in 14028
division ~~(A)(8)(a)~~ (H)(1) of this section may, by resolution, 14029
amend a resolution levying a tax under ~~this~~ division (A) of this 14030
section to provide that all or a portion of the revenue from the 14031
tax, including any revenue otherwise required to be returned to 14032
townships or municipal corporations under ~~this~~ that division, 14033
may be used or pledged for the payment of debt service on 14034
securities issued to pay the costs of constructing, operating, 14035
and maintaining sports facilities described in division ~~(A)(8)~~ 14036
~~(b)~~ (H)(2) of this section. 14037

(8) The board of county commissioners of a county 14038
described in division ~~(A)(9)~~ (I) of this section may, by 14039
resolution, amend a resolution levying a tax under ~~this~~ division 14040
(A) of this section to provide that all or a portion of the 14041
revenue from the tax may be used for the purposes described in 14042
section 307.679 of the Revised Code. 14043

~~(2)~~ (B) A board of county commissioners that levies an 14044

excise tax under division ~~(A) (1)~~ (A) of this section on June 30, 14045
1997, at a rate of three per cent, and that has pledged revenue 14046
from the tax to an agreement entered into under section 307.695 14047
of the Revised Code or, in the case of the board of county 14048
commissioners of an eligible county as defined in section 14049
307.695 of the Revised Code, has amended a resolution levying a 14050
tax under division ~~(C)~~ (M) of this section to provide that 14051
proceeds from the tax shall be used by the board as described in 14052
division (H) of section 307.695 of the Revised Code, may, at any 14053
time by a resolution adopted by a majority of the members of the 14054
board, amend the resolution levying a tax under division ~~(A) (1)~~ 14055
(A) of this section to provide for an increase in the rate of 14056
that tax up to seven per cent on each transaction; to provide 14057
that revenue from the increase in the rate shall be used as 14058
described in division (H) of section 307.695 of the Revised Code 14059
or be spent solely to make contributions to the convention and 14060
visitors' bureau operating within the county to be used 14061
specifically for promotion, advertising, and marketing of the 14062
region in which the county is located; and to provide that the 14063
rate in excess of the three per cent levied under division ~~(A)~~ 14064
~~(1)~~ (A) of this section shall remain in effect at the rate at 14065
which it is imposed for the duration of the period during which 14066
any agreement is in effect that was entered into under section 14067
307.695 of the Revised Code by the board of county commissioners 14068
levying a tax under division ~~(A) (1)~~ (A) of this section, the 14069
duration of the period during which any securities issued by the 14070
board under division (I) of section 307.695 of the Revised Code 14071
are outstanding, or the duration of the period during which the 14072
board owns a project as defined in section 307.695 of the 14073
Revised Code, whichever duration is longest. The amendment also 14074
shall provide that no portion of that revenue need be returned 14075
to townships or municipal corporations as would otherwise be 14076

required under division ~~(A) (1)~~ (A) of this section. 14077

~~(3)~~ (C) (1) As used in division (C) 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. 14078
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(2) A board of county commissioners that levies a tax under division ~~(A) (1)~~ (A) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following: 14082
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(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction; 14087
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(b) That all of the revenue from the increase in the 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 November 15, 1998, and used to pay costs of constructing, maintaining, operating, and promoting a facility in the county, including paying bonds, or notes issued in anticipation of bonds, as provided by that chapter; 14089
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(c) That no portion of the revenue arising from the increase in rate need be returned to municipal corporations or townships as otherwise required under division ~~(A) (1)~~ (A) of this section; 14097
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(d) 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 14101
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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)~~(A) 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 14135
be used to pay costs of constructing, expanding, maintaining, 14136
operating, or promoting a convention center in the county, 14137
including paying bonds, or notes issued in anticipation of 14138
bonds, as provided by that chapter; 14139

~~(iii)~~ (c) That no portion of the revenue arising from the 14140
increase in rate need be returned to municipal corporations or 14141
townships as otherwise required under division ~~(A) (1)~~ (A) of 14142
this section; 14143

~~(iv)~~ (d) That the increase in rate shall not be subject to 14144
diminution by initiative or referendum or by law while any 14145
bonds, or notes in anticipation of bonds, issued by the 14146
authority under Chapter 351. of the Revised Code to which the 14147
revenue is pledged, remain outstanding in accordance with their 14148
terms, unless provision is made by law or by the board of county 14149
commissioners for an adequate substitute therefor that is 14150
satisfactory to the trustee if a trust agreement secures the 14151
bonds. 14152

~~(b)~~ (3) Any board of county commissioners that, pursuant 14153
to division ~~(A) (4) (a)~~ (D) (2) of this section, has amended a 14154
resolution levying the tax authorized by division ~~(A) (1)~~ (A) of 14155
this section may further amend the resolution to provide that 14156
the revenue referred to in division ~~(A) (4) (a) (ii)~~ (D) (2) (b) of 14157
this section shall be pledged and contributed both to a 14158
convention facilities authority to pay the costs of 14159
constructing, expanding, maintaining, or operating one or more 14160
convention centers in the county, including paying bonds, or 14161
notes issued in anticipation of bonds, as provided in Chapter 14162
351. of the Revised Code, and to a convention and visitors' 14163
bureau to pay the costs of promoting one or more convention 14164

centers in the county. 14165

~~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.~~ 14166
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~~(5) (a) (E) (1)~~ As used in division ~~(A) (5) (E)~~ of this section: 14170
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~~(i) (a)~~ "Port authority" means a port authority created under Chapter 4582. of the Revised Code. 14172
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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. 14174
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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: 14181
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~~(i) (a)~~ Amend a resolution previously adopted under division ~~(A) (1) (A)~~ 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; 14187
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~~(ii) (b)~~ Amend a resolution previously adopted under division ~~(A) (1) (A)~~ of this section to increase the rate of the tax by not more than an additional two per cent and use the 14191
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revenue from the increase exclusively for that purpose. 14194

~~(e)~~ (3) If a board of county commissioners amends a 14195
resolution to increase the rate of a tax as authorized in 14196
division ~~(A) (5) (b) (ii)~~ (E) (2) (b) of this section, the board also 14197
may amend the resolution to specify that the increase in rate of 14198
the tax does not apply to "hotels," as otherwise defined in 14199
section 5739.01 of the Revised Code, having fewer rooms used for 14200
the accommodation of guests than a number of rooms specified by 14201
the board. 14202

~~(6)~~ (F) (1) A board of county commissioners of a county 14203
organized under a county charter adopted pursuant to Article X, 14204
Section 3, Ohio Constitution, and that levies an excise tax 14205
under division ~~(A) (1)~~ (A) of this section at a rate of three per 14206
cent and levies an additional excise tax under division ~~(E)~~ (O) 14207
of this section at a rate of one and one-half per cent may, by 14208
resolution adopted not later than January 1, 2008, by a majority 14209
of the members of the board, amend the resolution levying a tax 14210
under division ~~(A) (1)~~ (A) of this section to provide for an 14211
increase in the rate of that tax by not more than an additional 14212
one per cent on transactions by which lodging by a hotel is or 14213
is to be furnished to transient guests. Notwithstanding 14214
divisions ~~(A) (1)~~ (A) and ~~(E)~~ (O) of this section, the resolution 14215
shall provide that all of the revenue from the increase in rate, 14216
after deducting the real and actual costs of administering the 14217
tax, shall be used to pay the costs of improving, expanding, 14218
equipping, financing, or operating a convention center by a 14219
convention and visitors' bureau in the county. ~~The~~ 14220

(2) The increase in rate shall remain in effect for the 14221
period specified in the resolution, not to exceed ten years, and 14222
may be extended for an additional period of time not to exceed 14223

ten years thereafter by a resolution adopted by a majority of 14224
the members of the board. ~~The~~ 14225

(3) The increase in rate shall be subject to the 14226
regulations adopted under division ~~(A)(1)~~ (A) of this section, 14227
except that the resolution may provide that no portion of the 14228
revenue from the increase in the rate shall be returned to 14229
townships or municipal corporations as would otherwise be 14230
required under that division. 14231

~~(7)~~ (G)(1) Division ~~(A)(7)~~ (G) of this section applies 14232
only to a county with a population greater than sixty-five 14233
thousand and less than seventy thousand according to the most 14234
recent federal decennial census and in which, on December 31, 14235
2006, an excise tax is levied under division ~~(A)(1)~~ (A) of this 14236
section at a rate not less than and not greater than three per 14237
cent, and in which the most recent increase in the rate of that 14238
tax was enacted or took effect in November 1984. 14239

(2) The board of county commissioners of a county to which 14240
~~this~~ division (G) of this section applies, by resolution adopted 14241
by a majority of the members of the board, may increase the rate 14242
of the tax by not more than one per cent on transactions by 14243
which lodging by a hotel is or is to be furnished to transient 14244
guests. The increase in rate shall be for the purpose of paying 14245
expenses deemed necessary by the convention and visitors' bureau 14246
operating in the county to promote travel and tourism. ~~The~~ 14247

(3) The increase in rate shall remain in effect for the 14248
period specified in the resolution, not to exceed twenty years, 14249
provided that the increase in rate may not continue beyond the 14250
time when the purpose for which the increase is levied ceases to 14251
exist. If revenue from the increase in rate is pledged to the 14252
payment of debt charges on securities, the increase in rate is 14253

not subject to diminution by initiative or referendum or by law 14254
for so long as the securities are outstanding, unless provision 14255
is made by law or by the board of county commissioners for an 14256
adequate substitute for that revenue that is satisfactory to the 14257
trustee if a trust agreement secures payment of the debt 14258
charges. ~~The~~ 14259

(4) The increase in rate shall be subject to the 14260
regulations adopted under division ~~(A)(1)~~ (A) of this section, 14261
except that the resolution may provide that no portion of the 14262
revenue from the increase in the rate shall be returned to 14263
townships or municipal corporations as would otherwise be 14264
required under division ~~(A)(1)~~ (A) of this section. ~~A~~ 14265

(5) A resolution adopted under division ~~(A)(7)~~ (G) of this 14266
section is subject to referendum under sections 305.31 to 305.99 14267
of the Revised Code. 14268

~~(8)(a)~~ (H)(1) Division ~~(A)(8)~~ (H) of this section applies 14269
only to a county satisfying all of the following: 14270

~~(i)~~ (a) The population of the county is greater than one 14271
hundred seventy-five thousand and less than two hundred twenty- 14272
five thousand according to the most recent federal decennial 14273
census. 14274

~~(ii)~~ (b) An amusement park with an average yearly 14275
attendance in excess of two million guests is located in the 14276
county. 14277

~~(iii)~~ (c) On December 31, 2014, an excise tax was levied 14278
in the county under division ~~(A)(1)~~ (A) of this section at a 14279
rate of three per cent. 14280

~~(b)~~ (2) The board of county commissioners of a county to 14281
which ~~this~~ division (H) of this section applies, by resolution 14282

adopted by a majority of the members of the board, may increase 14283
the rate of the tax by not more than one per cent on 14284
transactions by which lodging by a hotel is or is to be 14285
furnished to transient guests. The increase in rate shall be 14286
used to pay the costs of constructing and maintaining facilities 14287
owned by the county or by a port authority created under Chapter 14288
4582. of the Revised Code, and designed to host sporting events 14289
and expenses deemed necessary by the convention and visitors' 14290
bureau operating in the county to promote travel and tourism 14291
with reference to the sports facilities, and to pay or pledge to 14292
the payment of debt service on securities issued to pay the 14293
costs of constructing, operating, and maintaining the sports 14294
facilities. ~~The~~ 14295

(3) The increase in rate shall remain in effect for the 14296
period specified in the resolution. If revenue from the increase 14297
in rate is pledged to the payment of debt charges on securities, 14298
the increase in rate is not subject to diminution by initiative 14299
or referendum or by law for so long as the securities are 14300
outstanding, unless provision is made by law or by the board of 14301
county commissioners for an adequate substitute for that revenue 14302
that is satisfactory to the trustee if a trust agreement secures 14303
payment of the debt charges. ~~The~~ 14304

(4) The increase in rate shall be subject to the 14305
regulations adopted under division ~~(A) (1)~~ (A) of this section, 14306
except that the resolution may provide that no portion of the 14307
revenue from the increase in the rate shall be returned to 14308
townships or municipal corporations as would otherwise be 14309
required under division ~~(A) (1)~~ (A) of this section. 14310

~~(9)~~ (I) (1) The board of county commissioners of a county 14311
with a population greater than seventy-five thousand and less 14312

than seventy-eight thousand, by resolution adopted by a majority 14313
of the members of the board not later than October 15, 2015, may 14314
increase the rate of the tax by not more than one per cent on 14315
transactions by which lodging by a hotel is or is to be 14316
furnished to transient guests. The increase in rate shall be for 14317
the purposes described in section 307.679 of the Revised Code or 14318
for the promotion of travel and tourism in the county, including 14319
travel and tourism to sports facilities. ~~The~~ 14320

(2) The increase in rate shall remain in effect for the 14321
period specified in the resolution and as necessary to fulfill 14322
the county's obligations under a cooperative agreement entered 14323
into under section 307.679 of the Revised Code. If the 14324
resolution is adopted by the board before September 29, 2015, 14325
but after that enactment becomes law, the increase in rate shall 14326
become effective beginning on September 29, 2015. If revenue 14327
from the increase in rate is pledged to the payment of debt 14328
charges on securities, or to substitute for other revenues 14329
pledged to the payment of such debt, the increase in rate is not 14330
subject to diminution by initiative or referendum or by law for 14331
so long as the securities are outstanding, unless provision is 14332
made by law or by the board of county commissioners for an 14333
adequate substitute for that revenue that is satisfactory to the 14334
trustee if a trust agreement secures payment of the debt 14335
charges. ~~The~~ 14336

(3) The increase in rate shall be subject to the 14337
regulations adopted under division ~~(A)(1)~~ (A) of this section, 14338
except that no portion of the revenue from the increase in the 14339
rate shall be returned to townships or municipal corporations as 14340
would otherwise be required under division ~~(A)(1)~~ (A) of this 14341
section. 14342

~~(10)~~ (J) (1) Division ~~(A) (10)~~ (J) of this section applies 14343
only to counties satisfying either of the following: 14344

(a) A county that, on July 1, 2015, does not levy an 14345
excise tax under division ~~(A) (1)~~ (A) of this section and that 14346
has a population of at least thirty-nine thousand but not more 14347
than forty thousand according to the 2010 federal decennial 14348
census; 14349

(b) A county that, on July 1, 2015, levies an excise tax 14350
under division ~~(A) (1)~~ (A) of this section at a rate of three per 14351
cent and that has a population of at least seventy-one thousand 14352
but not more than seventy-five thousand according to 2010 14353
federal decennial census. 14354

(2) The board of county commissioners of a county to which 14355
division ~~(A) (10)~~ (J) of this section applies, by resolution 14356
adopted by a majority of the members of the board, may levy an 14357
excise tax at a rate not to exceed three per cent on 14358
transactions by which lodging by a hotel is or is to be 14359
furnished to transient guests for the purpose of acquiring, 14360
constructing, equipping, or repairing permanent improvements, as 14361
defined in section 133.01 of the Revised Code. ~~If~~ 14362

(3) ~~If~~ the board does not levy a tax under division ~~(A) (1)~~ 14363
(A) of this section, the board shall establish regulations 14364
necessary to provide for the administration of the tax, which 14365
may prescribe the time for payment of the tax and the imposition 14366
of penalty or interest subject to the limitations on penalty and 14367
interest provided in division ~~(A) (1)~~ (A) of this section. No 14368
portion of the revenue shall be returned to townships or 14369
municipal corporations in the county unless otherwise provided 14370
by resolution of the board. ~~The~~ 14371

(4) The tax shall apply throughout the territory of the county, including in any township or municipal corporation levying an excise tax under ~~division (B) of this section or~~ division (A) or (B) of section 5739.08 of the Revised Code. The levy of the tax is subject to referendum as provided under section 305.31 of the Revised Code.

(5) The tax shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding unless provision is made by law or by the board for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges.

~~(11)~~ (K) (1) The board of county commissioners of an eligible county, as defined in section 307.678 of the Revised Code, that levies an excise tax under division ~~(A) (1)~~ (A) of this section on July 1, 2017, at a rate of three per cent may, by resolution adopted by a majority of the members of the board, amend the resolution levying the tax to increase the rate of the tax by not more than an additional three per cent on each transaction. ~~No~~

(2) No portion of the revenue shall be returned to townships or municipal corporations in the county unless otherwise provided by resolution of the board. Otherwise, the revenue from the increase in the rate shall be distributed and used in the same manner described under division ~~(A) (1)~~ (A) of this section or distributed or used to provide credit enhancement facilities as authorized under section 307.678 of

the Revised Code. ~~The~~ 14402

(3) The increase in rate shall remain in effect for the 14403
period specified in the resolution. If revenue from the increase 14404
in rate is pledged to the payment of debt charges on securities, 14405
the increase in rate is not subject to diminution by initiative 14406
or referendum or by law for so long as the securities are 14407
outstanding unless provision is made by law or by the board for 14408
an adequate substitute for that revenue that is satisfactory to 14409
the trustee if a trust agreement secures payment of the debt 14410
charges. 14411

~~(12)(a)~~ (L)(1) As used in ~~this division~~ (L) of this 14412
section: 14413

~~(i)~~ (a) "Eligible county" means a county that has a 14414
population greater than one hundred ninety thousand and less 14415
than two hundred thousand according to the 2010 federal 14416
decennial census and that levies an excise tax under division 14417
~~(A)(1)~~ (A) of this section at a rate of three per cent. 14418

~~(ii)~~ (b) "Professional sports facility" means a sports 14419
facility that is intended to house major or minor league 14420
professional athletic teams, including a stadium, together with 14421
all parking facilities, walkways, and other auxiliary 14422
facilities, real and personal property, property rights, 14423
easements, and interests that may be appropriate for, or used in 14424
connection with, the operation of the facility. 14425

~~(b)~~ (2) Subject to division ~~(A)(12)(e)~~ (L)(3) of this 14426
section, the board of county commissioners of an eligible 14427
county, by resolution adopted by a majority of the members of 14428
the board, may increase the rate of the tax by not more than one 14429
per cent on transactions by which lodging by a hotel is or is to 14430

be furnished to transient guests. Revenue from the increase in rate shall be used for the purposes of paying the costs of constructing, improving, and maintaining a professional sports facility in the county and paying expenses considered necessary by the convention and visitors' bureau operating in the county to promote travel and tourism with respect to that professional sports facility. The tax shall take effect only after the convention and visitors' bureau enters into a contract for the construction, improvement, or maintenance of a professional sports facility that is or will be located on property acquired, in whole or in part, with revenue from the increased rate, and thereafter shall remain in effect for the period specified in the resolution. If revenue from the increase in rate is pledged to the payment of debt charges on securities, the increase in rate is not subject to diminution by initiative or referendum or by law for so long as the securities are outstanding, unless a provision is made by law or by the board of county commissioners for an adequate substitute for that revenue that is satisfactory to the trustee if a trust agreement secures payment of the debt charges. The increase in rate shall be subject to the regulations adopted under division ~~(A)(1)~~ (A) of this section, except that the resolution may provide that no portion of the revenue from the increase in the rate shall be returned to townships or municipal corporations as would otherwise be required under division ~~(A)(1)~~ (A) of this section.

~~(e)~~ (3) If, on December 31, 2019, the convention and visitors' bureau has not entered into a contract for the construction, improvement, or maintenance of a professional sports facility that is or will be located on property acquired, in whole or in part, with revenue from the increased rate, the authority to levy the tax under division ~~(A)(12)(b)~~ (L)(2) of

this section is hereby repealed on that date. 14462

~~(B) (1) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A) (1) of this section may, by ordinance or resolution, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or the board of trustees of the township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of that revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a township as authorized by division (A) of section 5739.08 of the Revised Code.~~ 14463
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~~(2) (a) The legislative authority of the most populous municipal corporation located wholly or partly in a county in which the board of county commissioners has levied a tax under~~ 14490
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~~division (A) (4) of this section may amend, on or before~~ 14493
~~September 30, 2002, that municipal corporation's ordinance or~~ 14494
~~resolution that levies an excise tax on transactions by which~~ 14495
~~lodging by a hotel is or is to be furnished to transient guests,~~ 14496
~~to provide for all of the following:~~ 14497

~~(i) That the rate of the tax shall be increased by not~~ 14498
~~more than an additional one per cent on each transaction;~~ 14499

~~(ii) That all of the revenue from the increase in rate~~ 14500
~~shall be pledged and contributed to a convention facilities~~ 14501
~~authority established by the board of county commissioners under~~ 14502
~~Chapter 351. of the Revised Code on or before May 15, 2002, and~~ 14503
~~be used to pay costs of constructing, expanding, maintaining,~~ 14504
~~operating, or promoting a convention center in the county,~~ 14505
~~including paying bonds, or notes issued in anticipation of~~ 14506
~~bonds, as provided by that chapter;~~ 14507

~~(iii) That the increase in rate shall not be subject to~~ 14508
~~diminution by initiative or referendum or by law while any~~ 14509
~~bonds, or notes in anticipation of bonds, issued by the~~ 14510
~~authority under Chapter 351. of the Revised Code to which the~~ 14511
~~revenue is pledged, remain outstanding in accordance with their~~ 14512
~~terms, unless provision is made by law, by the board of county~~ 14513
~~commissioners, or by the legislative authority, for an adequate~~ 14514
~~substitute therefor that is satisfactory to the trustee if a~~ 14515
~~trust agreement secures the bonds.~~ 14516

~~(b) The legislative authority of a municipal corporation~~ 14517
~~that, pursuant to division (B) (2) (a) of this section, has~~ 14518
~~amended its ordinance or resolution to increase the rate of the~~ 14519
~~tax authorized by division (B) (1) of this section may further~~ 14520
~~amend the ordinance or resolution to provide that the revenue~~ 14521
~~referred to in division (B) (2) (a) (ii) of this section shall be~~ 14522

~~pledged and contributed both to a convention facilities 14523~~
~~authority to pay the costs of constructing, expanding, 14524~~
~~maintaining, or operating one or more convention centers in the 14525~~
~~county, including paying bonds, or notes issued in anticipation 14526~~
~~of bonds, as provided in Chapter 351. of the Revised Code, and 14527~~
~~to a convention and visitors' bureau to pay the costs of 14528~~
~~promoting one or more convention centers in the county. 14529~~

~~As used in division (B) (2) of this section, "cost" has the 14530~~
~~same meaning as in section 351.01 of the Revised Code, and 14531~~
~~"convention center" has the same meaning as in section 307.695- 14532~~
~~of the Revised Code. 14533~~

~~(3) The legislative authority of an eligible municipal 14534~~
~~corporation may amend, on or before December 31, 2017, that 14535~~
~~municipal corporation's ordinance or resolution that levies an 14536~~
~~excise tax on transactions by which lodging by a hotel is or is 14537~~
~~to be furnished to transient guests, to provide for the 14538~~
~~following: 14539~~

~~(a) That the rate of the tax shall be increased by not 14540~~
~~more than an additional three per cent on each transaction; 14541~~

~~(b) That all of the revenue from the increase in rate 14542~~
~~shall be used by the municipal corporation for economic 14543~~
~~development and tourism related purposes. 14544~~

~~As used in division (B) (3) of this section, "eligible 14545~~
~~municipal corporation" means a municipal corporation that, on 14546~~
~~the effective date of the amendment of this section by H.B. 49- 14547~~
~~of the 132nd general assembly, September 29, 2017, levied a tax 14548~~
~~under division (B) (1) of this section at a rate of three per 14549~~
~~cent and that is located in a county that, on that date, levied 14550~~
~~a tax under division (A) of this section at a rate of three per 14551~~

~~cent and that has, according to the most recent federal~~ 14552
~~decennial census, a population exceeding three hundred thousand~~ 14553
~~but not greater than three hundred fifty thousand.~~ 14554

~~(C)~~ (M) (1) For the purposes described in section 307.695 14555
of the Revised Code and to cover the costs of administering the 14556
tax, a board of county commissioners of a county where a tax 14557
imposed under division ~~(A) (1)~~ (A) of this section is in effect 14558
may, by resolution adopted within ninety days after July 15, 14559
1985, by a majority of the members of the board, levy an 14560
additional excise tax not to exceed three per cent on 14561
transactions by which lodging by a hotel is or is to be 14562
furnished to transient guests. The tax authorized by ~~this~~ 14563
division (M) of this section shall be in addition to any tax 14564
that is levied pursuant to ~~division~~ divisions (A) to (L) of this 14565
section, but it shall not apply to transactions subject to a tax 14566
levied by a municipal corporation or township pursuant to ~~the~~ 14567
~~authorization granted by division (A) of section 5739.08 of the~~ 14568
Revised Code. ~~The~~ 14569

(2) The board shall establish all regulations necessary to 14570
provide for the administration and allocation of the tax. The 14571
regulations may prescribe the time for payment of the tax, and 14572
may provide for the imposition of a penalty or interest, or 14573
both, for late payments, provided that the penalty does not 14574
exceed ten per cent of the amount of tax due, and the rate at 14575
which interest accrues does not exceed the rate per annum 14576
prescribed pursuant to section 5703.47 of the Revised Code. ~~All~~ 14577

(3) All revenues arising from the tax shall be expended in 14578
accordance with section 307.695 of the Revised Code. The board 14579
of county commissioners of an eligible county as defined in 14580
section 307.695 of the Revised Code may, by resolution adopted 14581

by a majority of the members of the board, amend the resolution 14582
levying a tax under this division to provide that the revenue 14583
from the tax shall be used by the board as described in division 14584
(H) of section 307.695 of the Revised Code. ~~A~~ 14585

(4) A tax imposed under this division shall remain in 14586
effect at the rate at which it is imposed for the duration of 14587
the period during which any agreement entered into by the board 14588
under section 307.695 of the Revised Code is in effect, the 14589
duration of the period during which any securities issued by the 14590
board under division (I) of section 307.695 of the Revised Code 14591
are outstanding, or the duration of the period during which the 14592
board owns a project as defined in section 307.695 of the 14593
Revised Code, whichever duration is longest. 14594

~~(D)~~ (N) (1) For the purpose of providing contributions 14595
under division (B) (1) of section 307.671 of the Revised Code to 14596
enable the acquisition, construction, and equipping of a port 14597
authority educational and cultural facility in the county and, 14598
to the extent provided for in the cooperative agreement 14599
authorized by that section, for the purpose of paying debt 14600
service charges on bonds, or notes in anticipation of bonds, 14601
described in division (B) (1) (b) of that section, a board of 14602
county commissioners, by resolution adopted within ninety days 14603
after December 22, 1992, by a majority of the members of the 14604
board, may levy an additional excise tax not to exceed one and 14605
one-half per cent on transactions by which lodging by a hotel is 14606
or is to be furnished to transient guests. The excise tax 14607
authorized by ~~this~~ division (N) of this section shall be in 14608
addition to any tax that is levied pursuant to divisions (A), ~~7~~ 14609
~~(B), and (C)~~ to (M) of this section, to any excise tax levied 14610
pursuant to section 5739.08 of the Revised Code, and to any 14611
excise tax levied pursuant to section 351.021 of the Revised 14612

Code. ~~The~~ 14613

(2) The board of county commissioners shall establish all 14614
regulations necessary to provide for the administration and 14615
allocation of the tax that are not inconsistent with this 14616
section or section 307.671 of the Revised Code. The regulations 14617
may prescribe the time for payment of the tax, and may provide 14618
for the imposition of a penalty or interest, or both, for late 14619
payments, provided that the penalty does not exceed ten per cent 14620
of the amount of tax due, and the rate at which interest accrues 14621
does not exceed the rate per annum prescribed pursuant to 14622
section 5703.47 of the Revised Code. ~~All~~ 14623

(3) All revenues arising from the tax shall be expended in 14624
accordance with section 307.671 of the Revised Code and division 14625
~~(D)~~ (N) of this section. The levy of a tax imposed under ~~this~~ 14626
division (N) of this section may not commence prior to the first 14627
day of the month next following the execution of the cooperative 14628
agreement authorized by section 307.671 of the Revised Code by 14629
all parties to that agreement. ~~The~~ 14630

(4) The tax shall remain in effect at the rate at which it 14631
is imposed for the period of time described in division (C) of 14632
section 307.671 of the Revised Code for which the revenue from 14633
the tax has been pledged by the county to the corporation 14634
pursuant to that section, but, to any extent provided for in the 14635
cooperative agreement, for no lesser period than the period of 14636
time required for payment of the debt service charges on bonds, 14637
or notes in anticipation of bonds, described in division (B) (1) 14638
(b) of that section. 14639

~~(E)~~ (O) (1) For the purpose of paying the costs of 14640
acquiring, constructing, equipping, and improving a municipal 14641
educational and cultural facility, including debt service 14642

charges on bonds provided for in division (B) of section 307.672 14643
of the Revised Code, and for any additional purposes determined 14644
by the county in the resolution levying the tax or amendments to 14645
the resolution, including subsequent amendments providing for 14646
paying costs of acquiring, constructing, renovating, 14647
rehabilitating, equipping, and improving a port authority 14648
educational and cultural performing arts facility, as defined in 14649
section 307.674 of the Revised Code, and including debt service 14650
charges on bonds provided for in division (B) of section 307.674 14651
of the Revised Code, the legislative authority of a county, by 14652
resolution adopted within ninety days after June 30, 1993, by a 14653
majority of the members of the legislative authority, may levy 14654
an additional excise tax not to exceed one and one-half per cent 14655
on transactions by which lodging by a hotel is or is to be 14656
furnished to transient guests. The excise tax authorized by ~~this~~ 14657
division (O) of this section shall be in addition to any tax 14658
that is levied pursuant to divisions (A), ~~(B)~~, ~~(C)~~, and ~~(D)~~ to 14659
(N) of this section, to any excise tax levied pursuant to 14660
section 5739.08 of the Revised Code, and to any excise tax 14661
levied pursuant to section 351.021 of the Revised Code. ~~The~~ 14662

(2) The legislative authority of the county shall 14663
establish all regulations necessary to provide for the 14664
administration and allocation of the tax. The regulations may 14665
prescribe the time for payment of the tax, and may provide for 14666
the imposition of a penalty or interest, or both, for late 14667
payments, provided that the penalty does not exceed ten per cent 14668
of the amount of tax due, and the rate at which interest accrues 14669
does not exceed the rate per annum prescribed pursuant to 14670
section 5703.47 of the Revised Code. ~~All~~ 14671

(3) All revenues arising from the tax shall be expended in 14672
accordance with section 307.672 of the Revised Code and this 14673

division. The levy of a tax imposed under this division shall 14674
not commence prior to the first day of the month next following 14675
the execution of the cooperative agreement authorized by section 14676
307.672 of the Revised Code by all parties to that agreement. 14677
The tax shall remain in effect at the rate at which it is 14678
imposed for the period of time determined by the legislative 14679
authority of the county. That period of time shall not exceed 14680
fifteen years, except that the legislative authority of a county 14681
with a population of less than two hundred fifty thousand 14682
according to the most recent federal decennial census, by 14683
resolution adopted by a majority of its members before the 14684
original tax expires, may extend the duration of the tax for an 14685
additional period of time. The additional period of time by 14686
which a legislative authority extends a tax levied under ~~this~~ 14687
division (O) of this section shall not exceed fifteen years. 14688

~~(F)~~ (P) (1) The legislative authority of a county that has 14689
levied a tax under division ~~(E)~~ (O) of this section may, by 14690
resolution adopted within one hundred eighty days after January 14691
4, 2001, by a majority of the members of the legislative 14692
authority, amend the resolution levying a tax under that 14693
division to provide for the use of the proceeds of that tax, to 14694
the extent that it is no longer needed for its original purpose 14695
as determined by the parties to a cooperative agreement 14696
amendment pursuant to division (D) of section 307.672 of the 14697
Revised Code, to pay costs of acquiring, constructing, 14698
renovating, rehabilitating, equipping, and improving a port 14699
authority educational and cultural performing arts facility, 14700
including debt service charges on bonds provided for in division 14701
(B) of section 307.674 of the Revised Code, and to pay all 14702
obligations under any guaranty agreements, reimbursement 14703
agreements, or other credit enhancement agreements described in 14704

division (C) of section 307.674 of the Revised Code. ~~The~~ 14705

(2) The resolution may also provide for the extension of 14706
the tax at the same rate for the longer of the period of time 14707
determined by the legislative authority of the county, but not 14708
to exceed an additional twenty-five years, or the period of time 14709
required to pay all debt service charges on bonds provided for 14710
in division (B) of section 307.672 of the Revised Code and on 14711
port authority revenue bonds provided for in division (B) of 14712
section 307.674 of the Revised Code. ~~All~~ 14713

(3) All revenues arising from the amendment and extension 14714
of the tax shall be expended in accordance with section 307.674 14715
of the Revised Code, ~~this division,~~ and ~~division (E)~~ divisions 14716
(O) and (P) of this section. 14717

~~(G) For purposes of a tax levied by a county, township, or~~ 14718
~~municipal corporation under this section or section 5739.08 of~~ 14719
~~the Revised Code, a board of county commissioners, board of~~ 14720
~~township trustees, or the legislative authority of a municipal~~ 14721
~~corporation may adopt a resolution or ordinance at any time~~ 14722
~~specifying that "hotel," as otherwise defined in section 5739.01~~ 14723
~~of the Revised Code, includes the following:~~ 14724

~~(1) Establishments in which fewer than five rooms are used~~ 14725
~~for the accommodation of guests.~~ 14726

~~(2) Establishments at which rooms are used for the~~ 14727
~~accommodation of guests regardless of whether each room is~~ 14728
~~accessible through its own keyed entry or several rooms are~~ 14729
~~accessible through the same keyed entry; and, in determining the~~ 14730
~~number of rooms, all rooms are included regardless of the number~~ 14731
~~of structures in which the rooms are situated or the number of~~ 14732
~~parcels of land on which the structures are located if the~~ 14733

~~structures are under the same ownership and the structures are
not identified in advertisements of the accommodations as
distinct establishments. For the purposes of division (G) (2) of
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.~~

~~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.~~

~~(H) (1) (Q) (1)~~ As used in this division (Q) of this
section:

(a) "Convention facilities authority" has the same meaning
as in section 351.01 of the Revised Code.

(b) "Convention center" has the same meaning as in section
307.695 of the Revised Code.

(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 14763
shall provide for the extension of the tax at a rate not to 14764
exceed the rate specified in division ~~(D)~~(N) of this section 14765
for a period of time determined by the legislative authority of 14766
the county, but not to exceed an additional forty years. 14767

(3) The legislative authority of a county with a 14768
population of one million or more that has levied a tax under 14769
division ~~(A)(1)~~(A) of this section may, by resolution adopted 14770
by a majority of the members of the legislative authority, 14771
increase the rate of the tax levied by such county under 14772
division ~~(A)(1)~~(A) of this section to a rate not to exceed five 14773
per cent on transactions by which lodging by a hotel is or is to 14774
be furnished to transient guests. Notwithstanding any contrary 14775
provision of division ~~(A)(1)~~(A) of this section, the resolution 14776
may provide that all collections resulting from the rate levied 14777
in excess of three per cent, after deducting the real and actual 14778
costs of administering the tax, shall be deposited in the county 14779
general fund. 14780

(4) The legislative authority of a county with a 14781
population of one million or more that has levied a tax under 14782
division ~~(A)(1)~~(A) of this section may, by resolution adopted 14783
on or before August 30, 2004, by a majority of the members of 14784
the legislative authority, provide that all or a portion of the 14785
proceeds of the tax levied under division ~~(A)(1)~~(A) of this 14786
section, after deducting the real and actual costs of 14787
administering the tax and the amounts required to be returned to 14788
townships and municipal corporations with respect to the first 14789
three per cent levied under division ~~(A)(1)~~(A) of this section, 14790
shall be deposited in the county general fund, provided that 14791
such proceeds shall be used to satisfy any pledges made in 14792
connection with an agreement entered into under section 307.695 14793

of the Revised Code. 14794

(5) No amount collected from a tax levied, extended, or 14795
required to be deposited in the county general fund under 14796
division ~~(H)~~(Q) of this section shall be contributed to a 14797
convention facilities authority, corporation, or other entity 14798
created after July 1, 2003, for the principal purpose of 14799
constructing, improving, expanding, equipping, financing, or 14800
operating a convention center unless the mayor of the municipal 14801
corporation in which the convention center is to be operated by 14802
that convention facilities authority, corporation, or other 14803
entity has consented to the creation of that convention 14804
facilities authority, corporation, or entity. Notwithstanding 14805
any contrary provision of section 351.04 of the Revised Code, if 14806
a tax is levied by a county under division ~~(H)~~(Q) of this 14807
section, the board of county commissioners of that county may 14808
determine the manner of selection, the qualifications, the 14809
number, and terms of office of the members of the board of 14810
directors of any convention facilities authority, corporation, 14811
or other entity described in division ~~(H)~~(5)~~(Q)~~(5) of this 14812
section. 14813

(6) (a) No amount collected from a tax levied, extended, or 14814
required to be deposited in the county general fund under 14815
division ~~(H)~~(Q) of this section may be used for any purpose 14816
other than paying the direct and indirect costs of constructing, 14817
improving, expanding, equipping, financing, or operating a 14818
convention center and for the real and actual costs of 14819
administering the tax, unless, prior to the adoption of the 14820
resolution of the legislative authority of the county 14821
authorizing the levy, extension, increase, or deposit, the 14822
county and the mayor of the most populous municipal corporation 14823
in that county have entered into an agreement as to the use of 14824

such amounts, provided that such agreement has been approved by 14825
a majority of the mayors of the other municipal corporations in 14826
that county. The agreement shall provide that the amounts to be 14827
used for purposes other than paying the convention center or 14828
administrative costs described in division ~~(H) (6) (a)~~ (Q) (6) (a) 14829
of this section be used only for the direct and indirect costs 14830
of capital improvements, including the financing of capital 14831
improvements. 14832

(b) If the county in which the tax is levied has an 14833
association of mayors and city managers, the approval of that 14834
association of an agreement described in division ~~(H) (6) (a)~~ (Q) 14835
(6) (a) of this section shall be considered to be the approval of 14836
the majority of the mayors of the other municipal corporations 14837
for purposes of that division. 14838

(7) Each year, the auditor of state shall conduct an audit 14839
of the uses of any amounts collected from taxes levied, 14840
extended, or deposited under division ~~(H)~~ (Q) of this section 14841
and shall prepare a report of the auditor of state's findings. 14842
The auditor of state shall submit the report to the legislative 14843
authority of the county that has levied, extended, or deposited 14844
the tax, the speaker of the house of representatives, the 14845
president of the senate, and the leaders of the minority parties 14846
of the house of representatives and the senate. 14847

~~(I) (1)~~ (R) (1) As used in ~~this~~ division (R) of this 14848
section: 14849

(a) "Convention facilities authority" has the same meaning 14850
as in section 351.01 of the Revised Code. 14851

(b) "Convention center" has the same meaning as in section 14852
307.695 of the Revised Code. 14853

(2) Notwithstanding any contrary provision of division ~~(D)~~ 14854
(N) of this section, the legislative authority of a county with 14855
a population of one million two hundred thousand or more 14856
according to the most recent federal decennial census or the 14857
most recent annual population estimate published or released by 14858
the United States census bureau at the time the resolution is 14859
adopted placing the levy on the ballot, that has levied a tax 14860
under division ~~(D)~~(N) of this section may, by resolution 14861
adopted by a majority of the members of the legislative 14862
authority, provide for the extension of such levy and may 14863
provide that the proceeds of that tax, to the extent that the 14864
proceeds are no longer needed for their original purpose as 14865
defined by a cooperative agreement entered into under section 14866
307.671 of the Revised Code and after deducting the real and 14867
actual costs of administering the tax, shall be used for paying 14868
the direct and indirect costs of constructing, improving, 14869
expanding, equipping, financing, or operating a convention 14870
center. The resolution shall provide for the extension of the 14871
tax at a rate not to exceed the rate specified in division ~~(D)~~ 14872
(N) of this section for a period of time determined by the 14873
legislative authority of the county, but not to exceed an 14874
additional forty years. 14875

(3) The legislative authority of a county with a 14876
population of one million two hundred thousand or more that has 14877
levied a tax under division ~~(A)(1)~~(A) of this section may, by 14878
resolution adopted by a majority of the members of the 14879
legislative authority, increase the rate of the tax levied by 14880
such county under division ~~(A)(1)~~(A) of this section to a rate 14881
not to exceed five per cent on transactions by which lodging by 14882
a hotel is or is to be furnished to transient guests. 14883
Notwithstanding any contrary provision of division ~~(A)(1)~~(A) of 14884

this section, the resolution shall provide that all collections 14885
resulting from the rate levied in excess of three per cent, 14886
after deducting the real and actual costs of administering the 14887
tax, shall be used for paying the direct and indirect costs of 14888
constructing, improving, expanding, equipping, financing, or 14889
operating a convention center. 14890

(4) The legislative authority of a county with a 14891
population of one million two hundred thousand or more that has 14892
levied a tax under division ~~(A)(1)~~ (A) of this section may, by 14893
resolution adopted on or before July 1, 2008, by a majority of 14894
the members of the legislative authority, provide that all or a 14895
portion of the proceeds of the tax levied under division ~~(A)(1)~~ 14896
(A) of this section, after deducting the real and actual costs 14897
of administering the tax and the amounts required to be returned 14898
to townships and municipal corporations with respect to the 14899
first three per cent levied under division ~~(A)(1)~~ (A) of this 14900
section, shall be used to satisfy any pledges made in connection 14901
with an agreement entered into under section 307.695 of the 14902
Revised Code or shall otherwise be used for paying the direct 14903
and indirect costs of constructing, improving, expanding, 14904
equipping, financing, or operating a convention center. 14905

(5) Any amount collected from a tax levied or extended 14906
under division ~~(I)~~ (R) of this section may be contributed to a 14907
convention facilities authority created before July 1, 2005, but 14908
no amount collected from a tax levied or extended under division 14909
~~(I)~~ (R) of this section may be contributed to a convention 14910
facilities authority, corporation, or other entity created after 14911
July 1, 2005, unless the mayor of the municipal corporation in 14912
which the convention center is to be operated by that convention 14913
facilities authority, corporation, or other entity has consented 14914
to the creation of that convention facilities authority, 14915

corporation, or entity. 14916

~~(J) (1) Except as provided in division (J) (2) of this section, money collected by a county and distributed under this section to a convention and visitors' bureau in existence as of 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.~~ 14917
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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.~~ 14928
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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.~~ 14933
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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 14936
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administering the tax. All revenue arising from the tax shall be 14946
credited to one or more special funds in the county treasury and 14947
shall be spent solely for the purposes of paying those costs. 14948
~~The~~ 14949

The board of county commissioners shall adopt all rules 14950
necessary to provide for the administration of the tax subject 14951
to the same limitations on imposing penalty or interest under 14952
division ~~(A) (1)~~ (A) of this section. 14953

~~As used in this division "soldiers' memorial" means a~~ 14954
~~memorial constructed and funded under Chapter 345. of the~~ 14955
~~Revised Code.~~ 14956

~~(L)~~ (T) As used in division (T) of this section, "eligible 14957
county" means a county in which a county agricultural society or 14958
independent agricultural society is organized under section 14959
1711.01 or 1711.02 of the Revised Code, provided the 14960
agricultural society owns a facility or site in the county at 14961
which an annual harness horse race is conducted where one-day 14962
attendance equals at least forty thousand attendees. 14963

A board of county commissioners of an eligible county, by 14964
resolution adopted by a majority of the members of the board, 14965
may levy an excise tax at the rate of up to three per cent on 14966
transactions by which lodging by a hotel is or is to be 14967
furnished to transient guests for the purpose of paying the 14968
costs of permanent improvements at sites at which one or more 14969
agricultural societies conduct fairs or exhibits, paying the 14970
costs of maintaining or operating such permanent improvements, 14971
and paying the costs of administering the tax. ~~A~~ 14972

A resolution adopted under ~~this~~ division (T) of this 14973
section, other than a resolution that only extends the period of 14974

time for which the tax is levied, shall direct the board of 14975
elections to submit the question of the proposed lodging tax to 14976
the electors of the county at a special election held on the 14977
date specified by the board in the resolution, provided that the 14978
election occurs not less than ninety days after a certified copy 14979
of the resolution is transmitted to the board of elections. A 14980
resolution submitted to the electors under ~~this~~ division (T) of 14981
this section shall not go into effect unless it is approved by a 14982
majority of those voting upon it. The resolution takes effect on 14983
the date the board of county commissioners receives notification 14984
from the board of elections of an affirmative vote. 14985

The tax shall remain in effect for the period specified in 14986
the resolution, not to exceed five years, and may be extended 14987
for an additional period of time not to exceed fifteen years 14988
thereafter by a resolution adopted by a majority of the members 14989
of the board. A resolution extending the period of time for 14990
which the tax is in effect is not subject to approval of the 14991
electors of the county, but is subject to referendum under 14992
sections 305.31 to 305.99 of the Revised Code. All revenue 14993
arising from the tax shall be credited to one or more special 14994
funds in the county treasury and shall be spent solely for the 14995
purposes of paying the costs of such permanent improvements and 14996
maintaining or operating the improvements. Revenue allocated for 14997
the use of a county agricultural society may be credited to the 14998
county agricultural society fund created in section 1711.16 of 14999
the Revised Code upon appropriation by the board. If revenue is 15000
credited to that fund, it shall be expended only as provided in 15001
that section. 15002

The board of county commissioners shall adopt all rules 15003
necessary to provide for the administration of the tax. The 15004
rules may prescribe the time for payment of the tax, and may 15005

provide for the imposition or penalty or interest, or both, for 15006
late payments, provided that the penalty does not exceed ten per 15007
cent of the amount of tax due, and the rate at which interest 15008
accrues does not exceed the rate per annum prescribed in section 15009
5703.47 of the Revised Code. 15010

~~As used in this division, "eligible county" means a county 15011
in which a county agricultural society or independent 15012
agricultural society is organized under section 1711.01 or 15013
1711.02 of the Revised Code, provided the agricultural society 15014
owns a facility or site in the county at which an annual harness 15015
horse race is conducted where one-day attendance equals at least 15016
forty thousand attendees. 15017~~

~~(M)~~ (U) As used in ~~this~~ division (U) of this section, 15018
"eligible county" means a county in which a tax is levied under 15019
division (A) of this section at a rate of three per cent and 15020
whose territory includes a part of Lake Erie the shoreline of 15021
which represents at least fifty per cent of the linear length of 15022
the county's border with other counties of this state. 15023

The board of county commissioners of an eligible county 15024
that has entered into an agreement with a port authority in the 15025
county under section 4582.56 of the Revised Code may levy an 15026
additional lodging tax on transactions by which lodging by a 15027
hotel is or is to be furnished to transient guests for the 15028
purpose of financing lakeshore improvement projects constructed 15029
or financed by the port authority under that section. The 15030
resolution levying the tax shall specify the purpose of the tax, 15031
the rate of the tax, which shall not exceed two per cent, and 15032
the number of years the tax will be levied or that it will be 15033
levied for a continuing period of time. The tax shall be 15034
administered pursuant to the regulations adopted by the board 15035

under division (A) of this section, except that all the proceeds 15036
of the tax levied under this division shall be pledged to the 15037
payment of the costs, including debt charges, of lakeshore 15038
improvements undertaken by a port authority pursuant to the 15039
agreement under section 4582.56 of the Revised Code. No revenue 15040
from the tax may be used to pay the current expenses of the port 15041
authority. 15042

A resolution levying a tax under ~~this~~ division (U) of this 15043
section is subject to referendum under sections 305.31 to 305.41 15044
and 305.99 of the Revised Code. 15045

~~(N)(1)(a)~~ (V)(1) As used in division (V) of this section: 15046

(a) "Tourism development district" means a district 15047
designated by a municipal corporation under section 715.014 of 15048
the Revised Code or by a township under section 503.56 of the 15049
Revised Code. 15050

(b) "Lodging tax" means a tax levied pursuant to this 15051
section or section 5739.08 of the Revised Code. 15052

(c) "Tourism development district lodging tax proceeds" 15053
means all proceeds of a lodging tax derived from transactions by 15054
which lodging by a hotel located in a tourism development 15055
district is or is to be provided to transient guests. 15056

(d) "Eligible county" has the same meaning as in section 15057
307.678 of the Revised Code. 15058

(2)(a) Notwithstanding division (A) of this section, the 15059
board of county commissioners, board of township trustees, or 15060
legislative authority of any county, township, or municipal 15061
corporation that levies a lodging tax on September 29, 2017, and 15062
in which any part of a tourism development district is located 15063
on or after that date shall amend the ordinance or resolution 15064

levying the tax to require either of the following: 15065

(i) In the case of a tax levied by a county, that all 15066
tourism development district lodging tax proceeds from that tax 15067
be used exclusively to foster and develop tourism in the tourism 15068
development district; 15069

(ii) In the case of a tax levied by a township or 15070
municipal corporation, that all tourism development district 15071
lodging tax proceeds from that tax be used exclusively to foster 15072
and develop tourism in the tourism development district. 15073

(b) Notwithstanding division (A) of this section, any 15074
ordinance or resolution levying a lodging tax adopted on or 15075
after September 29, 2017, by a county, township, or municipal 15076
corporation in which any part of a tourism development district 15077
is located on or after that date shall require that all tourism 15078
development district lodging tax proceeds from that tax be used 15079
exclusively to foster and develop tourism in the tourism 15080
development district. 15081

(c) A county shall not use any of the proceeds described 15082
in division ~~(N) (1) (a) (i)~~ (V) (2) (a) (i) or ~~(N) (1) (b)~~ (V) (2) (b) of 15083
this section unless the convention and visitors' bureau 15084
operating within the county approves the manner in which such 15085
proceeds are used to foster and develop tourism in the tourism 15086
development district. Upon obtaining such approval, the county 15087
may pay such proceeds to the bureau to use for the agreed-upon 15088
purpose. 15089

A municipal corporation or township shall not use any of 15090
the proceeds described in division ~~(N) (1) (a) (ii)~~ (V) (2) (a) (ii) 15091
or ~~(N) (1) (b)~~ (V) (2) (b) of this section unless the convention and 15092
visitors' bureau operating within the municipal corporation or 15093

township approves the manner in which such proceeds are used to 15094
foster and develop tourism in the tourism development district. 15095
Upon obtaining such approval, the municipal corporation or 15096
township may pay such proceeds to the bureau to use for the 15097
agreed-upon purpose. 15098

~~(2) (a)~~ (3) (a) Notwithstanding division (A) of this 15099
section, the board of county commissioners of an eligible county 15100
that levies a lodging tax on March 23, 2018, may amend the 15101
resolution levying that tax to require that all or a portion of 15102
the proceeds of that tax otherwise required to be spent solely 15103
to make contributions to the convention and visitors' bureau 15104
operating within the county shall be used to foster and develop 15105
tourism in a tourism development district. 15106

(b) Notwithstanding division (A) of this section, the 15107
board of county commissioners of an eligible county that adopts 15108
a resolution levying a lodging tax on or after March 23, 2018, 15109
may require that all or a portion of the proceeds of that tax 15110
otherwise required to be spent solely to make contributions to 15111
the convention and visitors' bureau operating within the county 15112
pursuant to division (A) of this section shall be used to foster 15113
and develop tourism in a tourism development district. 15114

(c) A county shall not use any of the proceeds in the 15115
manner described in division ~~(N) (2) (a)~~ (V) (3) (a) or (b) of this 15116
section unless the convention and visitors' bureau operating 15117
within the county approves the manner in which such proceeds are 15118
used to foster and develop tourism in the tourism development 15119
district. Upon obtaining such approval, the county may pay such 15120
proceeds to the bureau to use for the agreed upon purpose. 15121

~~(3) As used in division (N) of this section:—~~ 15122

~~(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.~~ 15123
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~~(b) "Lodging tax" means a tax levied pursuant to this section or section 5739.08 of the Revised Code.~~ 15127
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~~(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.~~ 15129
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~~(d) "Eligible county" has the same meaning as in section 307.678 of the Revised Code.~~ 15133
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Sec. 5739.091. (A) For the purposes of a tax levied by a county, township, or municipal corporation under section 5739.08 or 5739.09 of the Revised Code, a board of county commissioners, board of township trustees, or the legislative authority of a municipal corporation may adopt a resolution or ordinance at any time specifying that "hotel," as otherwise defined in section 5739.01 of the Revised Code, includes the following: 15135
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(1) Establishments in which fewer than five rooms are used for the accommodation of guests; 15142
15143

(2) Establishments at which rooms are used for the accommodation of guests regardless of whether each room is accessible through its own keyed entry or several rooms are accessible through the same keyed entry; and, in determining the number of rooms, all rooms are included regardless of the number of structures in which the rooms are situated or the number of parcels of land on which the structures are located if the structures are under the same ownership and the structures are 15144
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not identified in advertisements of the accommodations as 15152
distinct establishments. For the purposes of division (A) (2) of 15153
this section, two or more structures are under the same 15154
ownership if they are owned by the same person, or if they are 15155
owned by two or more persons the majority of the ownership 15156
interests of which are owned by the same person. 15157

(B) The resolution or ordinance may apply to a tax imposed 15158
pursuant to section 5739.08 or 5739.09 of the Revised Code prior 15159
to the adoption of the resolution or ordinance if the resolution 15160
or ordinance so states, but the tax shall not apply to 15161
transactions by which lodging by such an establishment is 15162
provided to transient guests prior to the adoption of the 15163
resolution or ordinance. 15164

Sec. 5739.092. (A) Except as provided in division (B) of 15165
this section, money collected by a county and distributed under 15166
section 5739.09 of the Revised Code to a convention and 15167
visitors' bureau in existence as of June 30, 2013, except for 15168
any such money pledged, as of that date, to the payment of debt 15169
service charges on bonds, notes, securities, or lease 15170
agreements, shall be used solely for tourism sales, marketing 15171
and promotion, and their associated costs, including operational 15172
and administrative costs of the bureau, sales and marketing, and 15173
maintenance of the physical bureau structure. 15174

(B) A convention and visitors' bureau that has entered 15175
into an agreement under section 307.678 of the Revised Code may 15176
use revenue it receives from a tax levied under division (A) of 15177
section 5739.09 of the Revised Code as described in division (E) 15178
of section 307.678 of the Revised Code. 15179

Sec. 5739.21. (A) One hundred per cent of all money 15180
deposited into the state treasury under sections 5739.01 to 15181

5739.31 of the Revised Code that is not required to be 15182
distributed as provided in section 5739.102 of the Revised Code 15183
or division (B) of this section shall be credited to the general 15184
revenue fund. 15185

(B) (1) In any case where any county or transit authority 15186
has levied a tax or taxes pursuant to section 5739.021, 15187
5739.023, or 5739.026 of the Revised Code, the tax commissioner 15188
shall, within forty-five days after the end of each month, 15189
determine and certify to the director of budget and management 15190
the amount of the proceeds of such tax or taxes received during 15191
that month from billings and assessments, or associated with tax 15192
returns or reports filed during that month, to be returned to 15193
the county or transit authority levying the tax or taxes. The 15194
amount to be returned to each county and transit authority shall 15195
be a fraction of the aggregate amount of money collected with 15196
respect to each area in which one or more of such taxes are 15197
concurrently in effect with the tax levied by section 5739.02 of 15198
the Revised Code. The numerator of the fraction is the rate of 15199
the tax levied by the county or transit authority and the 15200
denominator of the fraction is the aggregate rate of such taxes 15201
applicable to such area. The amount to be returned to each 15202
county or transit authority shall be reduced by the amount of 15203
any refunds of county or transit authority tax paid pursuant to 15204
section 5739.07 of the Revised Code during the same month, or 15205
transfers made pursuant to division (B) (2) of section 5703.052 15206
of the Revised Code. 15207

(2) On a periodic basis, using the best information 15208
available, the tax commissioner shall distribute any amount of a 15209
county or transit authority tax that cannot be distributed under 15210
division (B) (1) of this section. Through audit or other means, 15211
the commissioner shall attempt to obtain the information 15212

necessary to make the distribution as provided under that 15213
division and, on receipt of that information, shall make 15214
adjustments to distributions previously made under this 15215
division. 15216

(3) ~~Beginning July 1, 2008, eight~~ Eight and thirty-three 15217
one-hundredths of one per cent of the revenue collected from the 15218
tax due under division (A) of section 5739.029 of the Revised 15219
Code shall be distributed to the county where the sale of the 15220
motor vehicle is situated under section ~~5739.035~~ 5739.033 of the 15221
Revised Code. The amount to be so distributed to the county 15222
shall be apportioned on the basis of the rates of taxes the 15223
county levies pursuant to sections 5739.021 and 5739.026 of the 15224
Revised Code, as applicable, and shall be credited to the funds 15225
of the county as provided in divisions (A) and (B) of section 15226
5739.211 of the Revised Code. 15227

(C) The aggregate amount to be returned to any county or 15228
transit authority shall be reduced by one per cent, which shall 15229
be certified directly to the credit of the local sales tax 15230
administrative fund, which is hereby created in the state 15231
treasury. For the purpose of determining the amount to be 15232
returned to a county and transit authority in which the rate of 15233
tax imposed by the transit authority has been reduced under 15234
section 5739.028 of the Revised Code, the tax commissioner shall 15235
use the respective rates of tax imposed by the county or transit 15236
authority that results from the change in the rates authorized 15237
under that section. 15238

(D) The director of budget and management shall transfer, 15239
from the same funds and in the same proportions specified in 15240
division (A) of this section, to the permissive tax distribution 15241
fund created by division (B) (1) of section 4301.423 of the 15242

Revised Code and to the local sales tax administrative fund, the 15243
amounts certified by the tax commissioner. The tax commissioner 15244
shall then, on or before the twentieth day of the month in which 15245
such certification is made, provide for payment of such 15246
respective amounts to the county treasurer and to the fiscal 15247
officer of the transit authority levying the tax or taxes. The 15248
amount transferred to the local sales tax administrative fund is 15249
for use by the tax commissioner in defraying costs incurred in 15250
administering such taxes levied by a county or transit 15251
authority. 15252

Sec. 5740.02. (A) (1) The state of Ohio shall participate 15253
in discussions with other states regarding the development of a 15254
streamlined sales and use tax system to reduce the burden and 15255
cost for all sellers to collect this state's sales and use 15256
taxes. 15257

(2) Subject to division (B) of this section, the state 15258
also shall participate in meetings of the implementing states or 15259
the governing board of the agreement to review, amend, or 15260
administer the terms of the agreement to simplify and modernize 15261
sales and use tax administration that embodies the requirements 15262
set forth in section 5740.05 of the Revised Code. For purposes 15263
of these meetings, the state shall be represented by three 15264
delegates. The tax commissioner or the commissioner's designee 15265
shall be the chairperson of the delegation. The other delegates 15266
shall be one delegate chosen by the speaker of the house of 15267
representatives and one delegate chosen by the president of the 15268
senate. In all matters where voting by the member states or the 15269
governing board is required to amend the agreement, the 15270
chairperson, based on the votes of the majority of the 15271
delegation, shall cast this state's vote. 15272

(B) The state shall not participate in the meetings of the 15273
implementing states or the governing board referred to in 15274
division (A) (2) of this section unless the meetings are 15275
conducted in accordance with requirements substantially similar 15276
to those described in divisions (C) and (F) of section 121.22 of 15277
the Revised Code, as if the participants of the meetings were a 15278
public body as defined in that section, except such meetings may 15279
be closed during any discussion pertaining to proprietary 15280
information of a person if the person so requests, personnel 15281
matters, competitive bidding, certification of service 15282
providers, or matters substantially similar to those described 15283
in ~~divisions~~ division (G) (2), (3), or (5) of section 121.22 of 15284
the Revised Code. The state may participate in teleconferences, 15285
special meetings, meetings of working groups, committees, or 15286
steering committees if they are conducted in accordance with the 15287
public participation rules applicable to such meetings, as 15288
established by the implementing states entitled to participate 15289
in discussions to finalize the agreement, or the governing 15290
board. 15291

(C) As used in this section: 15292

(1) "Meetings of the implementing states" means meetings 15293
of the entire body of the states that are entitled to 15294
participate in discussions to finalize the agreement because 15295
they have enacted legislation based on the uniform sales and use 15296
tax administration act, approved January 24, 2001, or the 15297
simplified sales and use tax administration act, approved 15298
January 27, 2001. 15299

(2) "Governing board" means the board that, under the 15300
terms of the agreement, is responsible for the administration 15301
and operation of the agreement. 15302

Sec. 5743.05. The tax commissioner shall sell all stamps 15303
provided for by section 5743.03 of the Revised Code. The stamps 15304
shall be sold at their face value, except the commissioner 15305
shall, by rule, authorize the sale of stamps to wholesale 15306
dealers in this state, or to wholesale dealers outside this 15307
state, at a discount of not less than one and eight-tenths per 15308
cent or more than ten per cent of their face value, as a 15309
commission for affixing and canceling the stamps. 15310

The commissioner, by rule, shall authorize the delivery of 15311
stamps to wholesale dealers in this state and to wholesale 15312
dealers outside this state on credit. If such a dealer has not 15313
been in good credit standing with this state for five 15314
consecutive years preceding the purchase, the commissioner shall 15315
require the dealer to file with the commissioner a bond to the 15316
state in the amount and in the form prescribed by the 15317
commissioner, with surety to the satisfaction of the 15318
commissioner, conditioned on payment to the treasurer of state 15319
or the commissioner within thirty days or the following twenty- 15320
third day of June, whichever comes first for stamps delivered 15321
within that time. If such a dealer has been in good credit 15322
standing with this state for five consecutive years preceding 15323
the purchase, the commissioner shall not require that the dealer 15324
file such a bond but shall require payment for the stamps within 15325
thirty days after purchase of the stamps or the following 15326
twenty-third day of June, whichever comes first. Stamps sold to 15327
a dealer not required to file a bond shall be sold at face 15328
value. The maximum amount that may be sold on credit to a dealer 15329
not required to file a bond shall equal one hundred ten per cent 15330
of the dealer's average monthly purchases over the preceding 15331
calendar year. The maximum amount shall be adjusted to reflect 15332
any changes in the tax rate and may be adjusted, upon 15333

application to the commissioner by the dealer, to reflect 15334
changes in the business operations of the dealer. The maximum 15335
amount shall be applicable to the period between the first day 15336
of July to the following twenty-third day of June. Payment by a 15337
dealer not required to file a bond shall be remitted by 15338
electronic funds transfer as prescribed by section 5743.051 of 15339
the Revised Code. If a dealer not required to file a bond fails 15340
to make the payment in full within the required payment period, 15341
the commissioner shall not thereafter sell stamps to that dealer 15342
until the dealer pays the outstanding amount, including penalty 15343
and interest on that amount as prescribed in this chapter, and 15344
the commissioner thereafter may require the dealer to file a 15345
bond until the dealer is restored to good standing. The 15346
commissioner shall limit delivery of stamps on credit to the 15347
period running from the first day of July of the fiscal year 15348
until the twenty-third day of the following June. Any discount 15349
allowed as a commission for affixing and canceling stamps shall 15350
be allowed with respect to sales of stamps on credit. 15351

The commissioner shall redeem and pay for any destroyed, 15352
unused, or spoiled tax stamps at their net value, and shall 15353
refund to wholesale dealers the net amount of state and county 15354
taxes paid erroneously or paid on cigarettes that have been sold 15355
in interstate or foreign commerce or that have become unsalable, 15356
and the net amount of county taxes that were paid on cigarettes 15357
that have been sold at retail or for retail sale outside a 15358
taxing county. 15359

An application for a refund of tax shall be filed with the 15360
commissioner, on the form prescribed by the commissioner for 15361
that purpose, within three years from the date the tax stamps 15362
are destroyed or spoiled, from the date of the erroneous 15363
payment, or from the date that cigarettes on which taxes have 15364

been paid have been sold in interstate or foreign commerce or 15365
have become unsalable. 15366

On the filing of the application, the commissioner shall 15367
determine the amount of refund to which the applicant is 15368
entitled, payable from receipts of the state tax, and, if 15369
applicable, payable from receipts of a county tax. If the amount 15370
is not less than that claimed, the commissioner shall certify 15371
the amount to the director of budget and management and 15372
treasurer of state for payment from the tax refund fund created 15373
by section 5703.052 of the Revised Code. If the amount is less 15374
than that claimed, the commissioner shall proceed in accordance 15375
with section 5703.70 of the Revised Code. 15376

If a refund is granted for payment of an illegal or 15377
erroneous assessment issued by the department, the refund shall 15378
include interest on the amount of the refund from the date of 15379
the overpayment. The interest shall be computed at the rate per 15380
annum prescribed by section 5703.47 of the Revised Code. 15381

Sec. 5743.08. Whenever the tax commissioner discovers any 15382
cigarettes which are being shipped, or which have been shipped, 15383
or transported in violation of section 2927.023 of the Revised 15384
Code, or discovers cigarettes, subject to the taxes levied under 15385
section 5743.02, 5743.021, 5743.024, or 5743.026 of the Revised 15386
Code, and upon which the taxes have not been paid or that are 15387
held for sale or distribution in violation of any other 15388
provision of this chapter, the commissioner may seize and take 15389
possession of such cigarettes, which shall thereupon be 15390
forfeited to the state, and the commissioner, within a 15391
reasonable time thereafter shall sell or destroy the forfeited 15392
cigarettes. If the commissioner takes ~~possession~~ possession of 15393
cigarettes seized pursuant to section 3739.11 of the Revised 15394

Code, such cigarettes shall be forfeited to the state, and the 15395
commissioner shall destroy such cigarettes, except prior to the 15396
destruction of any such cigarettes, the true holder of the 15397
trademark rights in the cigarette brand shall be permitted to 15398
inspect the cigarettes. If the commissioner sells cigarettes 15399
under this section, the commissioner shall use proceeds from the 15400
sale to pay the costs incurred in the proceedings. Any proceeds 15401
remaining after all costs have been paid shall be considered 15402
revenue arising from the taxes levied under this chapter. 15403
Seizure and sale shall not be deemed to relieve any person from 15404
the fine or imprisonment provided for violation of sections 15405
5743.01 to 5743.20 of the Revised Code or from a civil penalty 15406
under section 3739.99 of the Revised Code. A sale shall be made 15407
where it is most convenient and economical. The tax commissioner 15408
may order the destruction of the forfeited cigarettes if the 15409
quantity or quality of the cigarettes is not sufficient to 15410
warrant their sale. 15411

Sec. 5743.33. Except as provided in section ~~5747.331~~ 15412
5743.331 of the Revised Code, every person who has acquired 15413
cigarettes for use, storage, or other consumption subject to the 15414
tax levied under section 5743.32, 5743.321, 5743.323, or 15415
5743.324 of the Revised Code, shall, on or before the fifteenth 15416
day of the month following receipt of such cigarettes, file with 15417
the tax commissioner a return showing the amount of cigarettes 15418
acquired, together with remittance of the tax thereon. No such 15419
person shall transport within this state, cigarettes that have a 15420
wholesale value in excess of three hundred dollars, unless that 15421
person has obtained consent to transport the cigarettes from the 15422
department of taxation prior to such transportation. Such 15423
consent shall not be required if the applicable taxes levied 15424
under sections 5743.02, 5743.021, 5743.024, and 5743.026 of the 15425

Revised Code have been paid. Application for the consent shall 15426
be in the form prescribed by the tax commissioner. 15427

Every person transporting such cigarettes shall possess 15428
the consent while transporting or possessing the cigarettes 15429
within this state and shall produce the consent upon request of 15430
any law enforcement officer or authorized agent of the tax 15431
commissioner. 15432

Any person transporting such cigarettes without the 15433
consent required by this section, shall be subject to the 15434
provisions of this chapter, including the applicable taxes 15435
imposed under sections 5743.02, 5743.021, 5743.024, and 5743.026 15436
of the Revised Code. 15437

Sec. 5743.65. No person required by division ~~(B)~~(C) of 15438
section 5743.62 or division (B) of section 5743.63 of the 15439
Revised Code to file a return with the tax commissioner shall 15440
fail to make the return or fail to pay the applicable taxes 15441
levied under section 5743.62 or 5743.63 of the Revised Code or 15442
fail to pay any lawful assessment issued by the tax 15443
commissioner. 15444

Sec. 5745.14. (A) If any of the facts, figures, 15445
computations, or attachments required in a taxpayer's report to 15446
determine the tax due a municipal corporation must be altered as 15447
the result of an adjustment to the taxpayer's federal income tax 15448
return, whether the adjustment is initiated by the taxpayer, the 15449
internal revenue service, or the tax commissioner, and such 15450
alteration affects the taxpayer's tax liability to a municipal 15451
corporation, the taxpayer shall file an amended report with the 15452
tax commissioner in such form as the commissioner requires. The 15453
amended report shall be filed not later than one year after the 15454
adjustment has been agreed to or finally determined. 15455

(B) In the case of an underpayment, the amended report 15456
shall be accompanied by payment of an additional tax and 15457
interest due and is a report subject to assessment under section 15458
5745.12 of the Revised Code for the purpose of assessing any 15459
additional tax due under this division, together with any 15460
applicable penalty and interest. It shall not reopen those 15461
facts, figures, computations, or attachments from a previously 15462
filed report no longer subject to assessment that are not 15463
affected, either directly or indirectly, by the adjustment to 15464
the taxpayer's federal income tax return. 15465

(C) In the case of an overpayment, an application for 15466
refund may be filed under section 5745.11 of the Revised Code 15467
within the one-year period prescribed for filing the amended 15468
report even if it is filed beyond the period prescribed by that 15469
section, if it otherwise conforms to the requirements of such 15470
section. An application filed under this division shall claim 15471
refund of overpayments resulting from alterations to only those 15472
facts, figures, computations, or attachments required in the 15473
taxpayer's report that are affected, either directly or 15474
indirectly, by the adjustment to the taxpayer's federal income 15475
tax return unless it is also filed within the time prescribed by 15476
section 5745.11 of the Revised Code. It shall not reopen those 15477
facts, figures, computations, or attachments that are not 15478
affected, either directly or indirectly, by the adjustment to 15479
the taxpayer's federal income tax return. 15480

Sec. 5747.01. Except as otherwise expressly provided or 15481
clearly appearing from the context, any term used in this 15482
chapter that is not otherwise defined in this section has the 15483
same meaning as when used in a comparable context in the laws of 15484
the United States relating to federal income taxes or if not 15485
used in a comparable context in those laws, has the same meaning 15486

as in section 5733.40 of the Revised Code. Any reference in this 15487
chapter to the Internal Revenue Code includes other laws of the 15488
United States relating to federal income taxes. 15489

As used in this chapter: 15490

(A) "Adjusted gross income" or "Ohio adjusted gross 15491
income" means federal adjusted gross income, as defined and used 15492
in the Internal Revenue Code, adjusted as provided in this 15493
section: 15494

(1) Add interest or dividends on obligations or securities 15495
of any state or of any political subdivision or authority of any 15496
state, other than this state and its subdivisions and 15497
authorities. 15498

(2) Add interest or dividends on obligations of any 15499
authority, commission, instrumentality, territory, or possession 15500
of the United States to the extent that the interest or 15501
dividends are exempt from federal income taxes but not from 15502
state income taxes. 15503

(3) Deduct interest or dividends on obligations of the 15504
United States and its territories and possessions or of any 15505
authority, commission, or instrumentality of the United States 15506
to the extent that the interest or dividends are included in 15507
federal adjusted gross income but exempt from state income taxes 15508
under the laws of the United States. 15509

(4) Deduct disability and survivor's benefits to the 15510
extent included in federal adjusted gross income. 15511

(5) Deduct benefits under Title II of the Social Security 15512
Act and tier 1 railroad retirement benefits to the extent 15513
included in federal adjusted gross income under section 86 of 15514
the Internal Revenue Code. 15515

~~(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years beginning in 2002 or thereafter. "Undistributed net income of a 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 15547
adjusted gross income. 15548

~~(9)~~ (8) Add any loss or deduct any gain resulting from the 15549
sale, exchange, or other disposition of public obligations to 15550
the extent that the loss has been deducted or the gain has been 15551
included in computing federal adjusted gross income. 15552

~~(10)~~ (9) Deduct or add amounts, as provided under section 15553
5747.70 of the Revised Code, related to contributions to 15554
variable college savings program accounts made or tuition units 15555
purchased pursuant to Chapter 3334. of the Revised Code. 15556

~~(11)(a)~~ (10)(a) Deduct, to the extent not otherwise 15557
allowable as a deduction or exclusion in computing federal or 15558
Ohio adjusted gross income for the taxable year, the amount the 15559
taxpayer paid during the taxable year for medical care insurance 15560
and qualified long-term care insurance for the taxpayer, the 15561
taxpayer's spouse, and dependents. No deduction for medical care 15562
insurance under division ~~(A)(11)(a)~~ (A)(10)(a) of this section 15563
shall be allowed either to any taxpayer who is eligible to 15564
participate in any subsidized health plan maintained by any 15565
employer of the taxpayer or of the taxpayer's spouse, or to any 15566
taxpayer who is entitled to, or on application would be entitled 15567
to, benefits under part A of Title XVIII of the "Social Security 15568
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the 15569
purposes of division ~~(A)(11)(a)~~ (A)(10)(a) of this section, 15570
"subsidized health plan" means a health plan for which the 15571
employer pays any portion of the plan's cost. The deduction 15572
allowed under division ~~(A)(11)(a)~~ (A)(10)(a) of this section 15573
shall be the net of any related premium refunds, related premium 15574
reimbursements, or related insurance premium dividends received 15575
during the taxable year. 15576

(b) Deduct, to the extent not otherwise deducted or 15577
excluded in computing federal or Ohio adjusted gross income 15578
during the taxable year, the amount the taxpayer paid during the 15579
taxable year, not compensated for by any insurance or otherwise, 15580
for medical care of the taxpayer, the taxpayer's spouse, and 15581
dependents, to the extent the expenses exceed seven and one-half 15582
per cent of the taxpayer's federal adjusted gross income. 15583

~~(c) Deduct, to the extent not otherwise deducted or 15584
excluded in computing federal or Ohio adjusted gross income, any 15585
amount included in federal adjusted gross income under section 15586
105 or not excluded under section 106 of the Internal Revenue 15587
Code solely because it relates to an accident and health plan 15588
for a person who otherwise would be a "qualifying relative" and 15589
thus a "dependent" under section 152 of the Internal Revenue 15590
Code but for the fact that the person fails to meet the income 15591
and support limitations under section 152(d)(1)(B) and (C) of 15592
the Internal Revenue Code. 15593~~

~~(d) For purposes of division (A)(11) (A)(10) of this 15594
section, "medical care" has the meaning given in section 213 of 15595
the Internal Revenue Code, subject to the special rules, 15596
limitations, and exclusions set forth therein, and "qualified 15597
long-term care" has the same meaning given in section 7702B(c) 15598
of the Internal Revenue Code. Solely for purposes of divisions 15599
(A)(11)(a) and (e) division (A)(10)(a) of this section, 15600
"dependent" includes a person who otherwise would be a 15601
"qualifying relative" and thus a "dependent" under section 152 15602
of the Internal Revenue Code but for the fact that the person 15603
fails to meet the income and support limitations under section 15604
152(d)(1)(B) and (C) of the Internal Revenue Code. 15605~~

~~(12)(a) (11)(a) Deduct any amount included in federal 15606~~

adjusted gross income solely because the amount represents a 15607
reimbursement or refund of expenses that in any year the 15608
taxpayer had deducted as an itemized deduction pursuant to 15609
section 63 of the Internal Revenue Code and applicable United 15610
States department of the treasury regulations. The deduction 15611
otherwise allowed under division ~~(A) (12) (a)~~ (A) (11) (a) of this 15612
section shall be reduced to the extent the reimbursement is 15613
attributable to an amount the taxpayer deducted under this 15614
section in any taxable year. 15615

(b) Add any amount not otherwise included in Ohio adjusted 15616
gross income for any taxable year to the extent that the amount 15617
is attributable to the recovery during the taxable year of any 15618
amount deducted or excluded in computing federal or Ohio 15619
adjusted gross income in any taxable year. 15620

~~(13)~~ (12) Deduct any portion of the deduction described in 15621
section 1341(a) (2) of the Internal Revenue Code, for repaying 15622
previously reported income received under a claim of right, that 15623
meets both of the following requirements: 15624

(a) It is allowable for repayment of an item that was 15625
included in the taxpayer's adjusted gross income for a prior 15626
taxable year and did not qualify for a credit under division (A) 15627
or (B) of section 5747.05 of the Revised Code for that year; 15628

(b) It does not otherwise reduce the taxpayer's adjusted 15629
gross income for the current or any other taxable year. 15630

~~(14)~~ (13) Deduct an amount equal to the deposits made to, 15631
and net investment earnings of, a medical savings account during 15632
the taxable year, in accordance with section 3924.66 of the 15633
Revised Code. The deduction allowed by division ~~(A) (14)~~ (A) (13) 15634
of this section does not apply to medical savings account 15635

deposits and earnings otherwise deducted or excluded for the 15636
current or any other taxable year from the taxpayer's federal 15637
adjusted gross income. 15638

~~(15)(a)~~ (14)(a) Add an amount equal to the funds withdrawn 15639
from a medical savings account during the taxable year, and the 15640
net investment earnings on those funds, when the funds withdrawn 15641
were used for any purpose other than to reimburse an account 15642
holder for, or to pay, eligible medical expenses, in accordance 15643
with section 3924.66 of the Revised Code; 15644

(b) Add the amounts distributed from a medical savings 15645
account under division (A)(2) of section 3924.68 of the Revised 15646
Code during the taxable year. 15647

~~(16)~~ (15) Add any amount claimed as a credit under section 15648
5747.059 of the Revised Code to the extent that such amount 15649
satisfies either of the following: 15650

(a) The amount was deducted or excluded from the 15651
computation of the taxpayer's federal adjusted gross income as 15652
required to be reported for the taxpayer's taxable year under 15653
the Internal Revenue Code; 15654

(b) The amount resulted in a reduction of the taxpayer's 15655
federal adjusted gross income as required to be reported for any 15656
of the taxpayer's taxable years under the Internal Revenue Code. 15657

~~(17)~~ (16) Deduct the amount contributed by the taxpayer to 15658
an individual development account program established by a 15659
county department of job and family services pursuant to 15660
sections 329.11 to 329.14 of the Revised Code for the purpose of 15661
matching funds deposited by program participants. On request of 15662
the tax commissioner, the taxpayer shall provide any information 15663
that, in the tax commissioner's opinion, is necessary to 15664

establish the amount deducted under division ~~(A) (17)~~ (A) (16) of
this section. 15665
15666

~~(18) Beginning in taxable year 2001 but not for any~~ 15667
~~taxable year beginning after December 31, 2005, if the taxpayer~~ 15668
~~is married and files a joint return and the combined federal~~ 15669
~~adjusted gross income of the taxpayer and the taxpayer's spouse~~ 15670
~~for the taxable year does not exceed one hundred thousand~~ 15671
~~dollars, or if the taxpayer is single and has a federal adjusted~~ 15672
~~gross income for the taxable year not exceeding fifty thousand~~ 15673
~~dollars, deduct amounts paid during the taxable year for~~ 15674
~~qualified tuition and fees paid to an eligible institution for~~ 15675
~~the taxpayer, the taxpayer's spouse, or any dependent of the~~ 15676
~~taxpayer, who is a resident of this state and is enrolled in or~~ 15677
~~attending a program that culminates in a degree or diploma at an~~ 15678
~~eligible institution. The deduction may be claimed only to the~~ 15679
~~extent that qualified tuition and fees are not otherwise~~ 15680
~~deducted or excluded for any taxable year from federal or Ohio~~ 15681
~~adjusted gross income. The deduction may not be claimed for~~ 15682
~~educational expenses for which the taxpayer claims a credit~~ 15683
~~under section 5747.27 of the Revised Code.~~ 15684

~~(19) Add any reimbursement received during the taxable~~ 15685
~~year of any amount the taxpayer deducted under division (A) (18)~~ 15686
~~of this section in any previous taxable year to the extent the~~ 15687
~~amount is not otherwise included in Ohio adjusted gross income.~~ 15688

~~(20) (a) (i)~~ (17) (a) (i) Subject to divisions ~~(A) (20) (a) (iii)~~ 15689
(A) (17) (a) (iii), (iv), and (v) of this section, add five-sixths 15690
of the amount of depreciation expense allowed by subsection (k) 15691
of section 168 of the Internal Revenue Code, including the 15692
taxpayer's proportionate or distributive share of the amount of 15693
depreciation expense allowed by that subsection to a pass- 15694

through entity in which the taxpayer has a direct or indirect ownership interest. 15695
15696

(ii) Subject to divisions ~~(A) (20) (a) (iii)~~ (A) (17) (a) (iii), 15697
(iv), and (v) of this section, add five-sixths of the amount of 15698
qualifying section 179 depreciation expense, including the 15699
taxpayer's proportionate or distributive share of the amount of 15700
qualifying section 179 depreciation expense allowed to any pass- 15701
through entity in which the taxpayer has a direct or indirect 15702
ownership interest. 15703

(iii) Subject to division ~~(A) (20) (a) (v)~~ (A) (17) (a) (v) of 15704
this section, for taxable years beginning in 2012 or thereafter, 15705
if the increase in income taxes withheld by the taxpayer is 15706
equal to or greater than ten per cent of income taxes withheld 15707
by the taxpayer during the taxpayer's immediately preceding 15708
taxable year, "two-thirds" shall be substituted for "five- 15709
sixths" for the purpose of divisions ~~(A) (20) (a) (i)~~ (A) (17) (a) (i) 15710
and (ii) of this section. 15711

(iv) Subject to division ~~(A) (20) (a) (v)~~ (A) (17) (a) (v) of 15712
this section, for taxable years beginning in 2012 or thereafter, 15713
a taxpayer is not required to add an amount under division ~~(A)~~ 15714
~~(20)~~ (A) (17) of this section if the increase in income taxes 15715
withheld by the taxpayer and by any pass-through entity in which 15716
the taxpayer has a direct or indirect ownership interest is 15717
equal to or greater than the sum of (I) the amount of qualifying 15718
section 179 depreciation expense and (II) the amount of 15719
depreciation expense allowed to the taxpayer by subsection (k) 15720
of section 168 of the Internal Revenue Code, and including the 15721
taxpayer's proportionate or distributive shares of such amounts 15722
allowed to any such pass-through entities. 15723

(v) If a taxpayer directly or indirectly incurs a net 15724

operating loss for the taxable year for federal income tax 15725
purposes, to the extent such loss resulted from depreciation 15726
expense allowed by subsection (k) of section 168 of the Internal 15727
Revenue Code and by qualifying section 179 depreciation expense, 15728
"the entire" shall be substituted for "five-sixths of the" for 15729
the purpose of divisions ~~(A) (20) (a) (i)~~ (A) (17) (a) (i) and (ii) of 15730
this section. 15731

The tax commissioner, under procedures established by the 15732
commissioner, may waive the add-backs related to a pass-through 15733
entity if the taxpayer owns, directly or indirectly, less than 15734
five per cent of the pass-through entity. 15735

(b) Nothing in division ~~(A) (20)~~ (A) (17) of this section 15736
shall be construed to adjust or modify the adjusted basis of any 15737
asset. 15738

(c) To the extent the add-back required under division ~~(A)~~ 15739
~~(20) (a)~~ (A) (17) (a) of this section is attributable to property 15740
generating nonbusiness income or loss allocated under section 15741
5747.20 of the Revised Code, the add-back shall be situated to 15742
the same location as the nonbusiness income or loss generated by 15743
the property for the purpose of determining the credit under 15744
division (A) of section 5747.05 of the Revised Code. Otherwise, 15745
the add-back shall be apportioned, subject to one or more of the 15746
four alternative methods of apportionment enumerated in section 15747
5747.21 of the Revised Code. 15748

(d) For the purposes of division ~~(A) (20) (a) (v)~~ (A) (17) (a) 15749
(v) of this section, net operating loss carryback and 15750
carryforward shall not include the allowance of any net 15751
operating loss deduction carryback or carryforward to the 15752
taxable year to the extent such loss resulted from depreciation 15753
allowed by section 168(k) of the Internal Revenue Code and by 15754

the qualifying section 179 depreciation expense amount. 15755

(e) For the purposes of divisions ~~(A) (20)~~ (A) (17) and ~~(21)~~ (18) of this section: 15756
15757

(i) "Income taxes withheld" means the total amount 15758
withheld and remitted under sections 5747.06 and 5747.07 of the 15759
Revised Code by an employer during the employer's taxable year. 15760

(ii) "Increase in income taxes withheld" means the amount 15761
by which the amount of income taxes withheld by an employer 15762
during the employer's current taxable year exceeds the amount of 15763
income taxes withheld by that employer during the employer's 15764
immediately preceding taxable year. 15765

(iii) "Qualifying section 179 depreciation expense" means 15766
the difference between (I) the amount of depreciation expense 15767
directly or indirectly allowed to a taxpayer under section 179 15768
of the Internal Revised Code, and (II) the amount of 15769
depreciation expense directly or indirectly allowed to the 15770
taxpayer under section 179 of the Internal Revenue Code as that 15771
section existed on December 31, 2002. 15772

~~(21) (a)~~ (18) (a) If the taxpayer was required to add an 15773
amount under division ~~(A) (20) (a)~~ (A) (17) (a) of this section for 15774
a taxable year, deduct one of the following: 15775

(i) One-fifth of the amount so added for each of the five 15776
succeeding taxable years if the amount so added was five-sixths 15777
of qualifying section 179 depreciation expense or depreciation 15778
expense allowed by subsection (k) of section 168 of the Internal 15779
Revenue Code; 15780

(ii) One-half of the amount so added for each of the two 15781
succeeding taxable years if the amount so added was two-thirds 15782
of such depreciation expense; 15783

(iii) One-sixth of the amount so added for each of the six 15784
succeeding taxable years if the entire amount of such 15785
depreciation expense was so added. 15786

(b) If the amount deducted under division ~~(A) (21) (a)~~ (A) 15787
(18) (a) of this section is attributable to an add-back allocated 15788
under division ~~(A) (20) (e)~~ (A) (17) (c) of this section, the amount 15789
deducted shall be situated to the same location. Otherwise, the 15790
add-back shall be apportioned using the apportionment factors 15791
for the taxable year in which the deduction is taken, subject to 15792
one or more of the four alternative methods of apportionment 15793
enumerated in section 5747.21 of the Revised Code. 15794

(c) No deduction is available under division ~~(A) (21) (a)~~ 15795
(A) (18) (a) of this section with regard to any depreciation 15796
allowed by section 168(k) of the Internal Revenue Code and by 15797
the qualifying section 179 depreciation expense amount to the 15798
extent that such depreciation results in or increases a federal 15799
net operating loss carryback or carryforward. If no such 15800
deduction is available for a taxable year, the taxpayer may 15801
carry forward the amount not deducted in such taxable year to 15802
the next taxable year and add that amount to any deduction 15803
otherwise available under division ~~(A) (21) (a)~~ (A) (18) (a) of this 15804
section for that next taxable year. The carryforward of amounts 15805
not so deducted shall continue until the entire addition 15806
required by division ~~(A) (20) (a)~~ (A) (17) (a) of this section has 15807
been deducted. 15808

~~(d) No refund shall be allowed as a result of adjustments— 15809
made by division (A) (21) of this section.— 15810~~

~~(22)~~ (19) Deduct, to the extent not otherwise deducted or 15811
excluded in computing federal or Ohio adjusted gross income for 15812
the taxable year, the amount the taxpayer received during the 15813

taxable year as reimbursement for life insurance premiums under 15814
section 5919.31 of the Revised Code. 15815

~~(23)~~ (20) Deduct, to the extent not otherwise deducted or 15816
excluded in computing federal or Ohio adjusted gross income for 15817
the taxable year, the amount the taxpayer received during the 15818
taxable year as a death benefit paid by the adjutant general 15819
under section 5919.33 of the Revised Code. 15820

~~(24)~~ (21) Deduct, to the extent included in federal 15821
adjusted gross income and not otherwise allowable as a deduction 15822
or exclusion in computing federal or Ohio adjusted gross income 15823
for the taxable year, military pay and allowances received by 15824
the taxpayer during the taxable year for active duty service in 15825
the United States army, air force, navy, marine corps, or coast 15826
guard or reserve components thereof or the national guard. The 15827
deduction may not be claimed for military pay and allowances 15828
received by the taxpayer while the taxpayer is stationed in this 15829
state. 15830

~~(25)~~ (22) Deduct, to the extent not otherwise allowable as 15831
a deduction or exclusion in computing federal or Ohio adjusted 15832
gross income for the taxable year and not otherwise compensated 15833
for by any other source, the amount of qualified organ donation 15834
expenses incurred by the taxpayer during the taxable year, not 15835
to exceed ten thousand dollars. A taxpayer may deduct qualified 15836
organ donation expenses only once for all taxable years 15837
beginning with taxable years beginning in 2007. 15838

For the purposes of division ~~(A) (25)~~ (A) (22) of this 15839
section: 15840

(a) "Human organ" means all or any portion of a human 15841
liver, pancreas, kidney, intestine, or lung, and any portion of 15842

human bone marrow. 15843

(b) "Qualified organ donation expenses" means travel 15844
expenses, lodging expenses, and wages and salary forgone by a 15845
taxpayer in connection with the taxpayer's donation, while 15846
living, of one or more of the taxpayer's human organs to another 15847
human being. 15848

~~(26)~~ (23) Deduct, to the extent not otherwise deducted or 15849
excluded in computing federal or Ohio adjusted gross income for 15850
the taxable year, amounts received by the taxpayer as retired 15851
personnel pay for service in the uniformed services or reserve 15852
components thereof, or the national guard, or received by the 15853
surviving spouse or former spouse of such a taxpayer under the 15854
survivor benefit plan on account of such a taxpayer's death. If 15855
the taxpayer receives income on account of retirement paid under 15856
the federal civil service retirement system or federal employees 15857
retirement system, or under any successor retirement program 15858
enacted by the congress of the United States that is established 15859
and maintained for retired employees of the United States 15860
government, and such retirement income is based, in whole or in 15861
part, on credit for the taxpayer's uniformed service, the 15862
deduction allowed under this division shall include only that 15863
portion of such retirement income that is attributable to the 15864
taxpayer's uniformed service, to the extent that portion of such 15865
retirement income is otherwise included in federal adjusted 15866
gross income and is not otherwise deducted under this section. 15867
Any amount deducted under division ~~(A) (26)~~ (A) (23) of this 15868
section is not included in a taxpayer's adjusted gross income 15869
for the purposes of section 5747.055 of the Revised Code. No 15870
amount may be deducted under division ~~(A) (26)~~ (A) (23) of this 15871
section on the basis of which a credit was claimed under section 15872
5747.055 of the Revised Code. 15873

~~(27)~~ (24) Deduct, to the extent not otherwise deducted or 15874
excluded in computing federal or Ohio adjusted gross income for 15875
the taxable year, the amount the taxpayer received during the 15876
taxable year from the military injury relief fund created in 15877
section 5902.05 of the Revised Code. 15878

~~(28)~~ (25) Deduct, to the extent not otherwise deducted or 15879
excluded in computing federal or Ohio adjusted gross income for 15880
the taxable year, the amount the taxpayer received as a veterans 15881
bonus during the taxable year from the Ohio department of 15882
veterans services as authorized by Section 2r of Article VIII, 15883
Ohio Constitution. 15884

~~(29)~~ (26) Deduct, to the extent not otherwise deducted or 15885
excluded in computing federal or Ohio adjusted gross income for 15886
the taxable year, any income derived from a transfer agreement 15887
or from the enterprise transferred under that agreement under 15888
section 4313.02 of the Revised Code. 15889

~~(30)~~ (27) Deduct, to the extent not otherwise deducted or 15890
excluded in computing federal or Ohio adjusted gross income for 15891
the taxable year, Ohio college opportunity or federal Pell grant 15892
amounts received by the taxpayer or the taxpayer's spouse or 15893
dependent pursuant to section 3333.122 of the Revised Code or 20 15894
U.S.C. 1070a, et seq., and used to pay room or board furnished 15895
by the educational institution for which the grant was awarded 15896
at the institution's facilities, including meal plans 15897
administered by the institution. For the purposes of this 15898
division, receipt of a grant includes the distribution of a 15899
grant directly to an educational institution and the crediting 15900
of the grant to the enrollee's account with the institution. 15901

~~(31)~~ (28) Deduct from the portion of an individual's 15902
federal adjusted gross income that is business income, to the 15903

extent not otherwise deducted or excluded in computing federal 15904
adjusted gross income for the taxable year, one hundred twenty- 15905
five thousand dollars for each spouse if spouses file separate 15906
returns under section 5747.08 of the Revised Code or two hundred 15907
fifty thousand dollars for all other individuals. 15908

~~(32)~~ (29) Deduct, as provided under section 5747.78 of the 15909
Revised Code, contributions to ABLE savings accounts made in 15910
accordance with sections 113.50 to 113.56 of the Revised Code. 15911

~~(33)(a)~~ (30)(a) Deduct, to the extent not otherwise 15912
deducted or excluded in computing federal or Ohio adjusted gross 15913
income during the taxable year, all of the following: 15914

(i) Compensation paid to a qualifying employee described 15915
in division (A) (14) (a) of section 5703.94 of the Revised Code to 15916
the extent such compensation is for disaster work conducted in 15917
this state during a disaster response period pursuant to a 15918
qualifying solicitation received by the employee's employer; 15919

(ii) Compensation paid to a qualifying employee described 15920
in division (A) (14) (b) of section 5703.94 of the Revised Code to 15921
the extent such compensation is for disaster work conducted in 15922
this state by the employee during the disaster response period 15923
on critical infrastructure owned or used by the employee's 15924
employer; 15925

(iii) Income received by an out-of-state disaster business 15926
for disaster work conducted in this state during a disaster 15927
response period, or, if the out-of-state disaster business is a 15928
pass-through entity, a taxpayer's distributive share of the 15929
pass-through entity's income from the business conducting 15930
disaster work in this state during a disaster response period, 15931
if, in either case, the disaster work is conducted pursuant to a 15932

qualifying solicitation received by the business. 15933

(b) All terms used in division ~~(A) (33)~~ (A) (30) of this 15934
section have the same meanings as in section 5703.94 of the 15935
Revised Code. 15936

~~(34)~~ (31) For a taxpayer who is a qualifying Ohio 15937
educator, deduct, to the extent not otherwise deducted or 15938
excluded in computing federal or Ohio adjusted gross income for 15939
the taxable year, the lesser of two hundred fifty dollars or the 15940
amount of expenses described in subsections (a) (2) (D) (i) and 15941
(ii) of section 62 of the Internal Revenue Code paid or incurred 15942
by the taxpayer during the taxpayer's taxable year in excess of 15943
the amount the taxpayer is authorized to deduct for that taxable 15944
year under subsection (a) (2) (D) of that section. 15945

(B) "Business income" means income, including gain or 15946
loss, arising from transactions, activities, and sources in the 15947
regular course of a trade or business and includes income, gain, 15948
or loss from real property, tangible property, and intangible 15949
property if the acquisition, rental, management, and disposition 15950
of the property constitute integral parts of the regular course 15951
of a trade or business operation. "Business income" includes 15952
income, including gain or loss, from a partial or complete 15953
liquidation of a business, including, but not limited to, gain 15954
or loss from the sale or other disposition of goodwill. 15955

(C) "Nonbusiness income" means all income other than 15956
business income and may include, but is not limited to, 15957
compensation, rents and royalties from real or tangible personal 15958
property, capital gains, interest, dividends and distributions, 15959
patent or copyright royalties, or lottery winnings, prizes, and 15960
awards. 15961

(D) "Compensation" means any form of remuneration paid to an employee for personal services.	15962 15963
(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.	15964 15965 15966
(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.	15967 15968
(G) "Individual" means any natural person.	15969
(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.	15970 15971
(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:	15972 15973 15974
(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;	15975 15976
(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.	15977 15978 15979 15980
(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.	15981 15982 15983
For the purposes of division (I) (3) of this section:	15984
(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,	15985 15986 15987 15988

that were transferred, or caused to be transferred, directly or 15989
indirectly, to the trust by any of the following: 15990

(i) A person, a court, or a governmental entity or 15991
instrumentality on account of the death of a decedent, but only 15992
if the trust is described in division (I) (3) (e) (i) or (ii) of 15993
this section; 15994

(ii) A person who was domiciled in this state for the 15995
purposes of this chapter when the person directly or indirectly 15996
transferred assets to an irrevocable trust, but only if at least 15997
one of the trust's qualifying beneficiaries is domiciled in this 15998
state for the purposes of this chapter during all or some 15999
portion of the trust's current taxable year; 16000

(iii) A person who was domiciled in this state for the 16001
purposes of this chapter when the trust document or instrument 16002
or part of the trust document or instrument became irrevocable, 16003
but only if at least one of the trust's qualifying beneficiaries 16004
is a resident domiciled in this state for the purposes of this 16005
chapter during all or some portion of the trust's current 16006
taxable year. If a trust document or instrument became 16007
irrevocable upon the death of a person who at the time of death 16008
was domiciled in this state for purposes of this chapter, that 16009
person is a person described in division (I) (3) (a) (iii) of this 16010
section. 16011

(b) A trust is irrevocable to the extent that the 16012
transferor is not considered to be the owner of the net assets 16013
of the trust under sections 671 to 678 of the Internal Revenue 16014
Code. 16015

(c) With respect to a trust other than a charitable lead 16016
trust, "qualifying beneficiary" has the same meaning as 16017

"potential current beneficiary" as defined in section 1361(e) (2) 16018
of the Internal Revenue Code, and with respect to a charitable 16019
lead trust "qualifying beneficiary" is any current, future, or 16020
contingent beneficiary, but with respect to any trust 16021
"qualifying beneficiary" excludes a person or a governmental 16022
entity or instrumentality to any of which a contribution would 16023
qualify for the charitable deduction under section 170 of the 16024
Internal Revenue Code. 16025

(d) For the purposes of division (I) (3) (a) of this 16026
section, the extent to which a trust consists directly or 16027
indirectly, in whole or in part, of assets, net of any related 16028
liabilities, that were transferred directly or indirectly, in 16029
whole or part, to the trust by any of the sources enumerated in 16030
that division shall be ascertained by multiplying the fair 16031
market value of the trust's assets, net of related liabilities, 16032
by the qualifying ratio, which shall be computed as follows: 16033

(i) The first time the trust receives assets, the 16034
numerator of the qualifying ratio is the fair market value of 16035
those assets at that time, net of any related liabilities, from 16036
sources enumerated in division (I) (3) (a) of this section. The 16037
denominator of the qualifying ratio is the fair market value of 16038
all the trust's assets at that time, net of any related 16039
liabilities. 16040

(ii) Each subsequent time the trust receives assets, a 16041
revised qualifying ratio shall be computed. The numerator of the 16042
revised qualifying ratio is the sum of (1) the fair market value 16043
of the trust's assets immediately prior to the subsequent 16044
transfer, net of any related liabilities, multiplied by the 16045
qualifying ratio last computed without regard to the subsequent 16046
transfer, and (2) the fair market value of the subsequently 16047

transferred assets at the time transferred, net of any related 16048
liabilities, from sources enumerated in division (I) (3) (a) of 16049
this section. The denominator of the revised qualifying ratio is 16050
the fair market value of all the trust's assets immediately 16051
after the subsequent transfer, net of any related liabilities. 16052

(iii) Whether a transfer to the trust is by or from any of 16053
the sources enumerated in division (I) (3) (a) of this section 16054
shall be ascertained without regard to the domicile of the 16055
trust's beneficiaries. 16056

(e) For the purposes of division (I) (3) (a) (i) of this 16057
section: 16058

(i) A trust is described in division (I) (3) (e) (i) of this 16059
section if the trust is a testamentary trust and the testator of 16060
that testamentary trust was domiciled in this state at the time 16061
of the testator's death for purposes of the taxes levied under 16062
Chapter 5731. of the Revised Code. 16063

(ii) A trust is described in division (I) (3) (e) (ii) of 16064
this section if the transfer is a qualifying transfer described 16065
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 16066
trust is an irrevocable inter vivos trust, and at least one of 16067
the trust's qualifying beneficiaries is domiciled in this state 16068
for purposes of this chapter during all or some portion of the 16069
trust's current taxable year. 16070

(f) For the purposes of division (I) (3) (e) (ii) of this 16071
section, a "qualifying transfer" is a transfer of assets, net of 16072
any related liabilities, directly or indirectly to a trust, if 16073
the transfer is described in any of the following: 16074

(i) The transfer is made to a trust, created by the 16075
decedent before the decedent's death and while the decedent was 16076

domiciled in this state for the purposes of this chapter, and, 16077
prior to the death of the decedent, the trust became irrevocable 16078
while the decedent was domiciled in this state for the purposes 16079
of this chapter. 16080

(ii) The transfer is made to a trust to which the 16081
decedent, prior to the decedent's death, had directly or 16082
indirectly transferred assets, net of any related liabilities, 16083
while the decedent was domiciled in this state for the purposes 16084
of this chapter, and prior to the death of the decedent the 16085
trust became irrevocable while the decedent was domiciled in 16086
this state for the purposes of this chapter. 16087

(iii) The transfer is made on account of a contractual 16088
relationship existing directly or indirectly between the 16089
transferor and either the decedent or the estate of the decedent 16090
at any time prior to the date of the decedent's death, and the 16091
decedent was domiciled in this state at the time of death for 16092
purposes of the taxes levied under Chapter 5731. of the Revised 16093
Code. 16094

(iv) The transfer is made to a trust on account of a 16095
contractual relationship existing directly or indirectly between 16096
the transferor and another person who at the time of the 16097
decedent's death was domiciled in this state for purposes of 16098
this chapter. 16099

(v) The transfer is made to a trust on account of the will 16100
of a testator who was domiciled in this state at the time of the 16101
testator's death for purposes of the taxes levied under Chapter 16102
5731. of the Revised Code. 16103

(vi) The transfer is made to a trust created by or caused 16104
to be created by a court, and the trust was directly or 16105

indirectly created in connection with or as a result of the 16106
death of an individual who, for purposes of the taxes levied 16107
under Chapter 5731. of the Revised Code, was domiciled in this 16108
state at the time of the individual's death. 16109

(g) The tax commissioner may adopt rules to ascertain the 16110
part of a trust residing in this state. 16111

(J) "Nonresident" means an individual or estate that is 16112
not a resident. An individual who is a resident for only part of 16113
a taxable year is a nonresident for the remainder of that 16114
taxable year. 16115

(K) "Pass-through entity" has the same meaning as in 16116
section 5733.04 of the Revised Code. 16117

(L) "Return" means the notifications and reports required 16118
to be filed pursuant to this chapter for the purpose of 16119
reporting the tax due and includes declarations of estimated tax 16120
when so required. 16121

(M) "Taxable year" means the calendar year or the 16122
taxpayer's fiscal year ending during the calendar year, or 16123
fractional part thereof, upon which the adjusted gross income is 16124
calculated pursuant to this chapter. 16125

(N) "Taxpayer" means any person subject to the tax imposed 16126
by section 5747.02 of the Revised Code or any pass-through 16127
entity that makes the election under division (D) of section 16128
5747.08 of the Revised Code. 16129

(O) "Dependents" means one of the following: 16130

(1) For taxable years beginning on or after January 1, 16131
2018, and before January 1, 2026, dependents as defined in the 16132
Internal Revenue Code; 16133

(2) For all other taxable years, dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than

this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S) (1) (a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S) (1) (a) or (b) of this section;

(5) 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 taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in 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 section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required

to be reported for the taxpayer's taxable year under the 16251
Internal Revenue Code; 16252

(b) The amount resulted in a reduction in the taxpayer's 16253
federal taxable income as required to be reported for any of the 16254
taxpayer's taxable years under the Internal Revenue Code. 16255

(12) Deduct any amount, net of related expenses deducted 16256
in computing federal taxable income, that a trust is required to 16257
report as farm income on its federal income tax return, but only 16258
if the assets of the trust include at least ten acres of land 16259
satisfying the definition of "land devoted exclusively to 16260
agricultural use" under section 5713.30 of the Revised Code, 16261
regardless of whether the land is valued for tax purposes as 16262
such land under sections 5713.30 to 5713.38 of the Revised Code. 16263
If the trust is a pass-through entity investor, section 5747.231 16264
of the Revised Code applies in ascertaining if the trust is 16265
eligible to claim the deduction provided by division (S) (12) of 16266
this section in connection with the pass-through entity's farm 16267
income. 16268

Except for farm income attributable to the S portion of an 16269
electing small business trust, the deduction provided by 16270
division (S) (12) of this section is allowed only to the extent 16271
that the trust has not distributed such farm income. ~~Division~~ 16272
~~(S) (12) of this section applies only to taxable years of a trust~~ 16273
~~beginning in 2002 or thereafter.~~ 16274

(13) Add the net amount of income described in section 16275
641(c) of the Internal Revenue Code to the extent that amount is 16276
not included in federal taxable income. 16277

(14) Add or deduct the amount the taxpayer would be 16278
required to add or deduct under division ~~(A) (20)~~ (A) (17) or ~~(21)~~ 16279

(18) of this section if the taxpayer's Ohio taxable income were 16280
computed in the same manner as an individual's Ohio adjusted 16281
gross income is computed under this section. ~~In the case of a~~ 16282
~~trust, division (S) (14) of this section applies only to any of~~ 16283
~~the trust's taxable years beginning in 2002 or thereafter.~~ 16284

(T) "School district income" and "school district income 16285
tax" have the same meanings as in section 5748.01 of the Revised 16286
Code. 16287

(U) As used in divisions (A) (7), (A) (8), ~~(A) (9),~~ (S) (6), 16288
and (S) (7) of this section, "public obligations," "purchase 16289
obligations," and "interest or interest equivalent" have the 16290
same meanings as in section 5709.76 of the Revised Code. 16291

(V) "Limited liability company" means any limited 16292
liability company formed under Chapter 1705. of the Revised Code 16293
or under the laws of any other state. 16294

(W) "Pass-through entity investor" means any person who, 16295
during any portion of a taxable year of a pass-through entity, 16296
is a partner, member, shareholder, or equity investor in that 16297
pass-through entity. 16298

(X) "Banking day" has the same meaning as in section 16299
1304.01 of the Revised Code. 16300

(Y) "Month" means a calendar month. 16301

(Z) "Quarter" means the first three months, the second 16302
three months, the third three months, or the last three months 16303
of the taxpayer's taxable year. 16304

(AA) (1) ~~"Eligible institution" means a state university or~~ 16305
~~state institution of higher education as defined in section~~ 16306
~~3345.011 of the Revised Code, or a private, nonprofit college,~~ 16307

~~university, or other post secondary institution located in this 16308~~
~~state that possesses a certificate of authorization issued by 16309~~
~~the chancellor of higher education pursuant to Chapter 1713. of 16310~~
~~the Revised Code or a certificate of registration issued by the 16311~~
~~state board of career colleges and schools under Chapter 3332. 16312~~
~~of the Revised Code. 16313~~

~~(2) "Qualified tuition and fees" means tuition and fees 16314~~
~~imposed by an eligible institution as a condition of enrollment 16315~~
~~or attendance, not exceeding two thousand five hundred dollars 16316~~
~~in each of the individual's first two years of post secondary 16317~~
~~education. If the individual is a part time student, "qualified 16318~~
~~tuition and fees" includes tuition and fees paid for the 16319~~
~~academic equivalent of the first two years of post secondary 16320~~
~~education during a maximum of five taxable years, not exceeding 16321~~
~~a total of five thousand dollars. "Qualified tuition and fees" 16322~~
~~does not include: 16323~~

~~(a) Expenses for any course or activity involving sports, 16324~~
~~games, or hobbies unless the course or activity is part of the 16325~~
~~individual's degree or diploma program; 16326~~

~~(b) The cost of books, room and board, student activity 16327~~
~~fees, athletic fees, insurance expenses, or other expenses 16328~~
~~unrelated to the individual's academic course of instruction; 16329~~

~~(c) Tuition, fees, or other expenses paid or reimbursed 16330~~
~~through an employer, scholarship, grant in aid, or other 16331~~
~~educational benefit program. 16332~~

~~(BB) (1) "Modified business income" means the business 16333~~
~~income included in a trust's Ohio taxable income after such 16334~~
~~taxable income is first reduced by the qualifying trust amount, 16335~~
~~if any. 16336~~

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012 of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions ~~(BB) (4)~~ ~~(a)~~ (AA) (4) (a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income; 16366

(ii) The trust's qualifying investment income, as defined 16367
in section 5747.012 of the Revised Code, but only to the extent 16368
the qualifying investment income does not otherwise constitute 16369
modified business income and does not otherwise constitute a 16370
qualifying trust amount. 16371

(b) The qualifying trust amount multiplied by a fraction, 16372
the numerator of which is the sum of the book value of the 16373
qualifying investee's physical assets in this state on the last 16374
day of the qualifying investee's fiscal or calendar year ending 16375
immediately prior to the day on which the trust recognizes the 16376
qualifying trust amount, and the denominator of which is the sum 16377
of the book value of the qualifying investee's total physical 16378
assets everywhere on the last day of the qualifying investee's 16379
fiscal or calendar year ending immediately prior to the day on 16380
which the trust recognizes the qualifying trust amount. If, for 16381
a taxable year, the trust recognizes a qualifying trust amount 16382
with respect to more than one qualifying investee, the amount 16383
described in division ~~(BB) (4) (b)~~ (AA) (4) (b) of this section 16384
shall equal the sum of the products so computed for each such 16385
qualifying investee. 16386

(c) (i) With respect to a trust or portion of a trust that 16387
is a resident as ascertained in accordance with division (I) (3) 16388
(d) of this section, its modified nonbusiness income. 16389

(ii) With respect to a trust or portion of a trust that is 16390
not a resident as ascertained in accordance with division (I) (3) 16391
(d) of this section, the amount of its modified nonbusiness 16392
income satisfying the descriptions in divisions (B) (2) to (5) of 16393
section 5747.20 of the Revised Code, except as otherwise 16394
provided in division ~~(BB) (4) (c) (ii)~~ (AA) (4) (c) (ii) of this 16395

section. With respect to a trust or portion of a trust that is 16396
not a resident as ascertained in accordance with division (I) (3) 16397
(d) of this section, the trust's portion of modified nonbusiness 16398
income recognized from the sale, exchange, or other disposition 16399
of a debt interest in or equity interest in a section 5747.212 16400
entity, as defined in section 5747.212 of the Revised Code, 16401
without regard to division (A) of that section, shall not be 16402
allocated to this state in accordance with section 5747.20 of 16403
the Revised Code but shall be apportioned to this state in 16404
accordance with division (B) of section 5747.212 of the Revised 16405
Code without regard to division (A) of that section. 16406

If the allocation and apportionment of a trust's income 16407
under divisions ~~(BB) (4) (a)~~ (AA) (4) (a) and (c) of this section do 16408
not fairly represent the modified Ohio taxable income of the 16409
trust in this state, the alternative methods described in 16410
division (C) of section 5747.21 of the Revised Code may be 16411
applied in the manner and to the same extent provided in that 16412
section. 16413

(5) (a) Except as set forth in division ~~(BB) (5) (b)~~ (AA) (5) 16414
(b) of this section, "qualifying investee" means a person in 16415
which a trust has an equity or ownership interest, or a person 16416
or unit of government the debt obligations of either of which 16417
are owned by a trust. For the purposes of division ~~(BB) (2) (a)~~ 16418
(AA) (2) (a) of this section and for the purpose of computing the 16419
fraction described in division ~~(BB) (4) (b)~~ (AA) (4) (b) of this 16420
section, all of the following apply: 16421

(i) If the qualifying investee is a member of a qualifying 16422
controlled group on the last day of the qualifying investee's 16423
fiscal or calendar year ending immediately prior to the date on 16424
which the trust recognizes the gain or loss, then "qualifying 16425

investee" includes all persons in the qualifying controlled 16426
group on such last day. 16427

(ii) If the qualifying investee, or if the qualifying 16428
investee and any members of the qualifying controlled group of 16429
which the qualifying investee is a member on the last day of the 16430
qualifying investee's fiscal or calendar year ending immediately 16431
prior to the date on which the trust recognizes the gain or 16432
loss, separately or cumulatively own, directly or indirectly, on 16433
the last day of the qualifying investee's fiscal or calendar 16434
year ending immediately prior to the date on which the trust 16435
recognizes the qualifying trust amount, more than fifty per cent 16436
of the equity of a pass-through entity, then the qualifying 16437
investee and the other members are deemed to own the 16438
proportionate share of the pass-through entity's physical assets 16439
which the pass-through entity directly or indirectly owns on the 16440
last day of the pass-through entity's calendar or fiscal year 16441
ending within or with the last day of the qualifying investee's 16442
fiscal or calendar year ending immediately prior to the date on 16443
which the trust recognizes the qualifying trust amount. 16444

(iii) For the purposes of division ~~(BB)(5)(a)(iii)~~ (AA)(5) 16445
(a)(iii) of this section, "upper level pass-through entity" 16446
means a pass-through entity directly or indirectly owning any 16447
equity of another pass-through entity, and "lower level pass- 16448
through entity" means that other pass-through entity. 16449

An upper level pass-through entity, whether or not it is 16450
also a qualifying investee, is deemed to own, on the last day of 16451
the upper level pass-through entity's calendar or fiscal year, 16452
the proportionate share of the lower level pass-through entity's 16453
physical assets that the lower level pass-through entity 16454
directly or indirectly owns on the last day of the lower level 16455

pass-through entity's calendar or fiscal year ending within or 16456
with the last day of the upper level pass-through entity's 16457
fiscal or calendar year. If the upper level pass-through entity 16458
directly and indirectly owns less than fifty per cent of the 16459
equity of the lower level pass-through entity on each day of the 16460
upper level pass-through entity's calendar or fiscal year in 16461
which or with which ends the calendar or fiscal year of the 16462
lower level pass-through entity and if, based upon clear and 16463
convincing evidence, complete information about the location and 16464
cost of the physical assets of the lower pass-through entity is 16465
not available to the upper level pass-through entity, then 16466
solely for purposes of ascertaining if a gain or loss 16467
constitutes a qualifying trust amount, the upper level pass- 16468
through entity shall be deemed as owning no equity of the lower 16469
level pass-through entity for each day during the upper level 16470
pass-through entity's calendar or fiscal year in which or with 16471
which ends the lower level pass-through entity's calendar or 16472
fiscal year. Nothing in division ~~(BB) (5) (a) (iii)~~ (AA) (5) (a) (iii) 16473
of this section shall be construed to provide for any deduction 16474
or exclusion in computing any trust's Ohio taxable income. 16475

(b) With respect to a trust that is not a resident for the 16476
taxable year and with respect to a part of a trust that is not a 16477
resident for the taxable year, "qualifying investee" for that 16478
taxable year does not include a C corporation if both of the 16479
following apply: 16480

(i) During the taxable year the trust or part of the trust 16481
recognizes a gain or loss from the sale, exchange, or other 16482
disposition of equity or ownership interests in, or debt 16483
obligations of, the C corporation. 16484

(ii) Such gain or loss constitutes nonbusiness income. 16485

(6) "Available" means information is such that a person is 16486
able to learn of the information by the due date plus 16487
extensions, if any, for filing the return for the taxable year 16488
in which the trust recognizes the gain or loss. 16489

~~(CC)~~ (BB) "Qualifying controlled group" has the same 16490
meaning as in section 5733.04 of the Revised Code. 16491

~~(DD)~~ (CC) "Related member" has the same meaning as in 16492
section 5733.042 of the Revised Code. 16493

~~(EE) (1)~~ (DD) (1) For the purposes of division ~~(EE)~~ (DD) of 16494
this section: 16495

(a) "Qualifying person" means any person other than a 16496
qualifying corporation. 16497

(b) "Qualifying corporation" means any person classified 16498
for federal income tax purposes as an association taxable as a 16499
corporation, except either of the following: 16500

(i) A corporation that has made an election under 16501
subchapter S, chapter one, subtitle A, of the Internal Revenue 16502
Code for its taxable year ending within, or on the last day of, 16503
the investor's taxable year; 16504

(ii) A subsidiary that is wholly owned by any corporation 16505
that has made an election under subchapter S, chapter one, 16506
subtitle A of the Internal Revenue Code for its taxable year 16507
ending within, or on the last day of, the investor's taxable 16508
year. 16509

(2) For the purposes of this chapter, unless expressly 16510
stated otherwise, no qualifying person indirectly owns any asset 16511
directly or indirectly owned by any qualifying corporation. 16512

~~(FF)~~ (EE) For purposes of this chapter and Chapter 5751. 16513

of the Revised Code: 16514

(1) "Trust" does not include a qualified pre-income tax trust. 16515
16516

(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) (3)~~ (EE) (3) of this section. 16517
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(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 January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust. 16520
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(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements: 16531
16532

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972; 16533
16534

(b) The trust became irrevocable upon the creation of the trust; and 16535
16536

(c) The grantor was domiciled in this state at the time the trust was created. 16537
16538

~~(GG)~~ (FF) "Uniformed services" has the same meaning as in 10 U.S.C. 101. 16539
16540

~~(HH)~~ (GG) "Taxable business income" means the amount by 16541

which an individual's business income that is included in 16542
federal adjusted gross income exceeds the amount of business 16543
income the individual is authorized to deduct under division (A) 16544
(31) of this section for the taxable year. 16545

~~(II)~~ (HH) "Employer" does not include a franchisor with 16546
respect to the franchisor's relationship with a franchisee or an 16547
employee of a franchisee, unless the franchisor agrees to assume 16548
that role in writing or a court of competent jurisdiction 16549
determines that the franchisor exercises a type or degree of 16550
control over the franchisee or the franchisee's employees that 16551
is not customarily exercised by a franchisor for the purpose of 16552
protecting the franchisor's trademark, brand, or both. For 16553
purposes of this division, "franchisor" and "franchisee" have 16554
the same meanings as in 16 C.F.R. 436.1. 16555

~~(JJ)~~ (II) "Modified adjusted gross income" means Ohio 16556
adjusted gross income plus any amount deducted under division 16557
~~(A) (31)~~ (A) (28) of this section for the taxable year. 16558

~~(KK)~~ (JJ) "Qualifying Ohio educator" means an individual 16559
who, for a taxable year, qualifies as an eligible educator, as 16560
that term is defined in section 62 of the Internal Revenue Code, 16561
and who holds a certificate, license, or permit described in 16562
Chapter 3319. or section 3301.071 of the Revised Code. 16563

Sec. 5747.011. (A) As used in this section: 16564

(1) "Qualifying closely-held C corporation" means a person 16565
classified for federal income tax purposes as an association 16566
taxed as a corporation and that has more than fifty per cent of 16567
the value of its outstanding stock or equity owned, directly or 16568
indirectly, by or for not more than five qualifying persons. For 16569
the purposes of this division, the ownership of stock shall be 16570

determined under the rules set forth in section 544 of the Internal Revenue Code.

(2) "Qualifying person" means an individual; an organization described in section 401(a), 501(c)(17), or 509(a) of the Internal Revenue Code; or a portion of a trust permanently set aside or to be used exclusively for the purposes described in section 642(c) of the Internal Revenue Code or a corresponding provision of a prior federal income tax law.

(3) "Qualifying limited liability company" means a limited liability company that is not classified for federal income tax purposes as an association taxed as a corporation.

(4) "Ownership interest" means the equity or ownership interest in, or debt obligation of, a "qualifying investee" as defined in section 5747.01 of the Revised Code.

(5) "Qualifying individual beneficiary" has the same meaning as qualifying beneficiary as used in division (I)(3)(c) of section 5747.01 of the Revised Code, but is limited to individuals.

(6) "Family" of an individual means only the individual's spouse; the individual's ancestors, limited to the individual's parents, grandparents, and great grandparents; the siblings of such ancestors, whether by the whole or half blood or by legal adoption; the lineal descendants of such ancestors and siblings; persons legally adopted by such ancestors or by such siblings; and the spouses of such ancestors, siblings, legally adopted persons, and lineal descendants.

(B) The requirements of this division apply for purposes of division ~~(BB)~~ (AA) (2) (b) of section 5747.01 of the Revised Code and for the purposes of division (D) of section 5747.012 of

the Revised Code. Gain or loss included in a trust's Ohio 16600
taxable income is not a qualifying trust amount unless the 16601
trust's ownership interest in the qualifying investee is at 16602
least five per cent of the total outstanding ownership interests 16603
in such qualifying investee at any time during the ten-year 16604
period ending on the last day of the trust's taxable year in 16605
which the sale, exchange, or other disposition occurs. Nothing 16606
in this section negates the requirements in division ~~(BB)~~(AA) (2) 16607
of section 5747.01 of the Revised Code. 16608

For the purpose of ascertaining whether the trust's 16609
ownership interest in a qualifying investee is at least five per 16610
cent of the total outstanding ownership interests in such 16611
qualifying investee, the following apply: 16612

(1) On each day, an ownership interest owned, directly or 16613
indirectly, by or for a qualifying closely-held C corporation, 16614
an S corporation, a partnership other than a publicly traded 16615
partnership, a qualifying limited liability company, an estate, 16616
or a trust that is irrevocable as defined in division (I) (3) (b) 16617
of section 5747.01 of the Revised Code is considered as being 16618
owned proportionately on the same day by the equity investors of 16619
such qualifying closely-held C corporation, S corporation, 16620
partnership, or qualifying limited liability company, or by the 16621
beneficiaries of such estate or trust, as the case may be. For 16622
the purposes of division (B) (1) of this section, a beneficiary's 16623
proportionate share of an ownership interest held by a trust 16624
shall be ascertained in accordance with section 544(a) (1) of the 16625
Internal Revenue Code. 16626

(2) On each day, a trust, hereinafter referred to as the 16627
first trust, is considered as owning any ownership interest 16628
owned, directly or indirectly, by or for another trust, 16629

hereinafter referred to as the second trust, if on the same day 16630
the second trust has at least one individual trustee who is 16631
either (a) a trustee of the first trust, or (b) a member of a 16632
family that includes at least one of the trustees of the first 16633
trust. 16634

(3) On each day, a trust, hereinafter referred to as the 16635
first trust, is considered as owning any ownership interest 16636
owned, directly or indirectly, by or for another trust, 16637
hereinafter referred to as the second trust, if on the same day 16638
the second trust has at least one qualifying individual 16639
beneficiary who is either (a) a qualifying individual 16640
beneficiary of the first trust or (b) a member of a family which 16641
includes a qualifying individual beneficiary of the first trust. 16642

(4) An ownership interest constructively owned by a person 16643
by reason of the application of division (B)(1) of this section 16644
shall, for the purpose of applying divisions (B)(1) to (3) of 16645
this section, be treated as actually owned by that person. 16646

(5) An ownership interest constructively owned by a trust 16647
by reason of the application of division (B)(2) or (3) of this 16648
section shall not be treated as actually owned by that trust for 16649
purposes of applying divisions (B)(1) to (3) of this section. 16650

(6) If an ownership interest may be considered as owned by 16651
a trust under division (B)(1) or (2) of this section, the 16652
ownership interest shall be considered owned by that trust under 16653
division (B)(2) of this section. 16654

(7) If an ownership interest may be considered as owned by 16655
a trust under division (B)(1) or (3) of this section, the 16656
ownership interest shall be considered owned by that trust under 16657
division (B)(3) of this section. 16658

Sec. 5747.012. This section applies for the purposes of 16659
divisions ~~(BB)~~(AA) (3) and ~~(BB)~~ (4) (a) (ii) of section 5747.01 of 16660
the Revised Code. 16661

(A) As used in this section: 16662

(1) (a) Except as set forth in division (A) (1) (b) of this 16663
section, "qualifying investment income" means the portion of a 16664
qualifying investment pass-through entity's net income 16665
attributable to transaction fees in connection with the 16666
acquisition, ownership, or disposition of intangible property; 16667
loan fees; financing fees; consent fees; waiver fees; 16668
application fees; net management fees; dividend income; interest 16669
income; net capital gains from the sale or exchange or other 16670
disposition of intangible property; and all types and 16671
classifications of income attributable to distributive shares of 16672
income from other pass-through entities. 16673

(b) (i) Notwithstanding division (A) (1) (a) of this section, 16674
"qualifying investment income" does not include any part of the 16675
qualifying investment pass-through entity's net capital gain 16676
which, after the application of section 5747.231 of the Revised 16677
Code with respect to a trust, would also constitute a qualifying 16678
trust amount. 16679

(ii) Notwithstanding division (A) (1) (a) of this section, 16680
"qualifying investment income" does not include any part of the 16681
qualifying investment pass-through entity's net income 16682
attributable to the portion of a distributive share of income 16683
directly or indirectly from another pass-through entity to the 16684
extent such portion constitutes the other pass-through entity's 16685
net capital gain which, after the application of section 16686
5747.231 of the Revised Code with respect to a trust, would also 16687
constitute a qualifying trust amount. 16688

(2) "Qualifying investment pass-through entity" means an investment pass-through entity, as defined in section 5733.401 of the Revised Code, subject to the following qualifications:

(a) "Forty per cent" shall be substituted for "ninety per cent" wherever "ninety per cent" appears in section 5733.401 of the Revised Code.

(b) The pass-through entity must have been formed or organized as an entity prior to June 5, 2002, and must exist as a pass-through entity for all of the taxable year of the trust.

(c) The qualifying section 5747.012 trust or related persons to the qualifying section 5747.012 trust must directly or indirectly own at least five per cent of the equity of the investment pass-through entity each day of the entity's fiscal or calendar year ending within or with the last day of the qualifying section 5747.012 trust's taxable year;

(d) During the investment pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying section 5747.012 trust's taxable year, the qualifying section 5747.012 trust or related persons of or to the qualifying section 5747.012 trust must, on each day of the investment pass-through entity's year, own directly, or own through equity investments in other pass-through entities, more than sixty per cent of the equity of the investment pass-through entity.

(B) "Qualifying section 5747.012 trust" means a trust satisfying one of the following:

(1) The trust was created prior to, and was irrevocable on, June 5, 2002; or

(2) If the trust was created after June 4, 2002, or if the

trust became irrevocable after June 4, 2002, then at least 16718
eighty per cent of the assets transferred to the trust must have 16719
been previously owned by related persons to the trust or by a 16720
trust created prior to June 5, 2002, under which the creator did 16721
not retain the power to change beneficiaries, amend the trust, 16722
or revoke the trust. For purposes of division (B) (2) of this 16723
section, the power to substitute property of equal value shall 16724
not be considered to be a power to change beneficiaries, amend 16725
the trust, or revoke the trust. 16726

(C) For the purposes of this section, "related persons" 16727
means the family of a qualifying individual beneficiary, as 16728
defined in division (A) (5) of section 5747.011 of the Revised 16729
Code. For the purposes of this division, "family" has the same 16730
meaning as in division (A) (6) of section 5747.011 of the Revised 16731
Code. 16732

(D) For the purposes of applying divisions (A) (2) (c), (A) 16733
(2) (d), and (B) (2) of this section, the related persons or the 16734
qualifying section 5747.012 trust, as the case may be, shall be 16735
deemed to own the equity of the investment pass-through entity 16736
after the application of division (B) of section 5747.011 of the 16737
Revised Code. 16738

(E) "Irrevocable" has the same meaning as in division (I) 16739
(3) (b) of section 5747.01 of the Revised Code. 16740

(F) Nothing in this section requires any item of income, 16741
gain, or loss not satisfying the definition of qualifying 16742
investment income to be treated as modified nonbusiness income. 16743
Any item of income, gain, or loss that is not qualifying 16744
investment income is modified business income, modified 16745
nonbusiness income, or a qualifying trust amount, as the case 16746
may be. 16747

Sec. 5747.013. (A) As used in this section: 16748

(1) "Electric company," "combined company," and "telephone
company" have the same meanings as in section 5727.01 of the
Revised Code. 16749
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(2) "Qualified research" means laboratory research,
experimental research, and other similar types of research;
research in developing or improving a product; or research in
developing or improving the means of producing a product. It
does not include market research, consumer surveys, efficiency
surveys, management studies, ordinary testing or inspection of
material or products for quality control, historical research,
or literary research. "Product," as used in this paragraph, does
not include services or intangible property. 16752
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(B) The fraction to be used in calculating a trust's
modified Ohio taxable income under division ~~(BB)~~(AA) (4) (a) of
section 5747.01 of the Revised Code shall be determined as
follows: The numerator of the fraction is the sum of the
following products: the property factor multiplied by twenty,
the payroll factor multiplied by twenty, and the sales factor
multiplied by sixty. The denominator of the fraction is one
hundred, provided that the denominator shall be reduced by
twenty if the property factor has a denominator of zero, by
twenty if the payroll factor has a denominator of zero, and by
sixty if the sales factor has a denominator of zero. 16761
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The property, payroll, and sales factors shall be
determined as follows: 16772
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(1) The property factor is a fraction the numerator of
which is the average value of the trust's real and tangible
personal property owned or rented and used in the trade or 16774
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16776

business in this state during the taxable year, and the 16777
denominator of which is the average value of all the trust's 16778
real and tangible personal property owned or rented and used in 16779
the trade or business everywhere during such year. Real and 16780
tangible personal property that is owned but leased to a lessee 16781
to be used in the lessee's trade or business shall not be 16782
included in the property factor of the owner. There shall be 16783
excluded from the numerator and denominator of the fraction the 16784
original cost of all of the following property within Ohio: 16785
property with respect to which a "pollution control facility" 16786
certificate has been issued pursuant to section 5709.21 of the 16787
Revised Code; property with respect to which an "industrial 16788
water pollution control certificate" has been issued pursuant to 16789
that section or former section 6111.31 of the Revised Code; and 16790
property used exclusively during the taxable year for qualified 16791
research. 16792

(a) Property owned by the trust is valued at its original 16793
cost. Property rented by the trust is valued at eight times the 16794
net annual rental rate. "Net annual rental rate" means the 16795
annual rental rate paid by the trust less any annual rental rate 16796
received by the trust from subrentals. 16797

(b) The average value of property shall be determined by 16798
averaging the values at the beginning and the end of the taxable 16799
year, but the tax commissioner may require the averaging of 16800
monthly values during the taxable year, if reasonably required 16801
to reflect properly the average value of the trust's property. 16802

(2) The payroll factor is a fraction the numerator of 16803
which is the total amount paid in this state during the taxable 16804
year by the trust for compensation, and the denominator of which 16805
is the total compensation paid everywhere by the trust during 16806

such year. There shall be excluded from the numerator and the denominator of the payroll factor the total compensation paid in this state to employees who are primarily engaged in qualified research.

(a) Compensation is paid in this state if: (i) the recipient's service is performed entirely within this state; (ii) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state; or (iii) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled, is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(b) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.

(3) The sales factor is a fraction the numerator of which is the total sales in this state by the trust during the taxable year, and the denominator of which is the total sales by the trust everywhere during such year. In determining the numerator and denominator of the fraction, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor,

in the case of a trust owning at least eighty per cent of the 16837
issued and outstanding common stock of one or more insurance 16838
companies or public utilities, except an electric company and a 16839
combined company, and, for tax years 2005 and thereafter, a 16840
telephone company, or owning at least twenty-five per cent of 16841
the issued and outstanding common stock of one or more financial 16842
institutions, receipts received by the trust from such insurance 16843
companies, utilities, and financial institutions shall be 16844
eliminated. 16845

For the purpose of this section and section 5747.08 of the 16846
Revised Code, sales of tangible personal property are in this 16847
state where such property is received in this state by the 16848
purchaser. In the case of delivery of tangible personal property 16849
by common carrier or by other means of transportation, the place 16850
at which such property is ultimately received after all 16851
transportation has been completed shall be considered as the 16852
place at which such property is received by the purchaser. 16853
Direct delivery in this state, other than for purposes of 16854
transportation, to a person or firm designated by a purchaser 16855
constitutes delivery to the purchaser in this state, and direct 16856
delivery outside this state to a person or firm designated by a 16857
purchaser does not constitute delivery to the purchaser in this 16858
state, regardless of where title passes or other conditions of 16859
sale. 16860

Sales, other than sales of tangible personal property, are 16861
in this state if either: 16862

(a) The income-producing activity is performed solely in 16863
this state; or 16864

(b) The income-producing activity is performed both within 16865
and without this state and a greater proportion of the seller's 16866

income-producing activity is performed within this state than in 16867
any other state, based on costs of performance. 16868

Sec. 5747.02. (A) For the purpose of providing revenue for 16869
the support of schools and local government functions, to 16870
provide relief to property taxpayers, to provide revenue for the 16871
general revenue fund, and to meet the expenses of administering 16872
the tax levied by this chapter, there is hereby levied on every 16873
individual, trust, and estate residing in or earning or 16874
receiving income in this state, on every individual, trust, and 16875
estate earning or receiving lottery winnings, prizes, or awards 16876
pursuant to Chapter 3770. of the Revised Code, on every 16877
individual, trust, and estate earning or receiving winnings on 16878
casino gaming, and on every individual, trust, and estate 16879
otherwise having nexus with or in this state under the 16880
Constitution of the United States, an annual tax measured as 16881
prescribed in divisions (A) (1) to (4) of this section. 16882

(1) In the case of trusts, the tax imposed by this section 16883
shall be measured by modified Ohio taxable income under division 16884
(D) of this section and levied in the same amount as the tax is 16885
imposed on estates as prescribed in division (A) (2) of this 16886
section. 16887

(2) In the case of estates, the tax imposed by this 16888
section shall be measured by Ohio taxable income. The tax shall 16889
be levied at the rate of one and forty-two thousand seven 16890
hundred forty-four hundred-thousandths per cent for the first 16891
twenty-one thousand seven hundred fifty dollars of such income 16892
and, for income in excess of that amount, the tax shall be 16893
levied at the same rates prescribed in division (A) (3) of this 16894
section for individuals. 16895

(3) In the case of individuals, the tax imposed by this 16896

section on income other than taxable business income shall be 16897
measured by Ohio adjusted gross income, less taxable business 16898
income and less an exemption for the taxpayer, the taxpayer's 16899
spouse, and each dependent as provided in section 5747.025 of 16900
the Revised Code. If the balance thus obtained is equal to or 16901
less than twenty-one thousand seven hundred fifty dollars, no 16902
tax shall be imposed on that balance. If the balance thus 16903
obtained is greater than twenty-one thousand seven hundred fifty 16904
dollars, the tax is hereby levied as follows: 16905

16906

1	2
A OHIO ADJUSTED GROSS INCOME	TAX
LESS TAXABLE BUSINESS INCOME	
AND EXEMPTIONS (INDIVIDUALS)	
OR MODIFIED OHIO TAXABLE	
INCOME (TRUSTS) OR OHIO	
TAXABLE INCOME (ESTATES)	
B More than \$21,750 but not more than \$43,450	\$310.47 plus 2.850% of the amount in excess of \$21,750
C More than \$43,450 but not more than \$86,900	\$928.92 plus 3.326% of the amount in excess of \$43,450
D More than \$86,900 but not more than \$108,700	\$2,374.07 plus 3.802% of the amount in excess of \$86,900
E More than \$108,700 but not more than \$217,400	\$3,202.91 plus 4.413% of the amount in excess of \$108,700

shall not be adjusted. 16935

The adjusted amounts apply to taxable years beginning in 16936
the calendar year in which the adjustments are made and to 16937
taxable years beginning in each ensuing calendar year until a 16938
calendar year in which a new adjustment is made pursuant to this 16939
division. The tax commissioner shall not make a new adjustment 16940
in any year in which the amount resulting from the adjustment 16941
would be less than the amount resulting from the adjustment in 16942
the preceding year. 16943

(B) If the director of budget and management makes a 16944
certification to the tax commissioner under division (B) of 16945
section 131.44 of the Revised Code, the amount of tax as 16946
determined under divisions (A) (1) to (3) of this section shall 16947
be reduced by the percentage prescribed in that certification 16948
for taxable years beginning in the calendar year in which that 16949
certification is made. 16950

~~(C) The levy of this tax on income does not prevent a 16951
municipal corporation, a joint economic development zone created 16952
under section 715.691, or a joint economic development district 16953
created under section 715.70, 715.71, or 715.72 of the Revised 16954
Code from levying a tax on income. 16955~~

~~(D) This division applies only to taxable years of a trust 16956
beginning in 2002 or thereafter. 16957~~

(1) The tax imposed by this section on a trust shall be 16958
computed by multiplying the Ohio modified taxable income of the 16959
trust by the rates prescribed by division (A) of this section. 16960

(2) A resident trust may claim a credit against the tax 16961
computed under division ~~(D)~~ (C) of this section equal to the 16962
lesser of (a) the tax paid to another state or the District of 16963

Columbia on the resident trust's modified nonbusiness income, 16964
other than the portion of the resident trust's nonbusiness 16965
income that is qualifying investment income as defined in 16966
section 5747.012 of the Revised Code, or (b) the effective tax 16967
rate, based on modified Ohio taxable income, multiplied by the 16968
resident trust's modified nonbusiness income other than the 16969
portion of the resident trust's nonbusiness income that is 16970
qualifying investment income. The credit applies before any 16971
other applicable credits. 16972

~~(3) The credits authorized by the following sections of~~ 16973
~~the Revised Code do not apply to a trust subject to division (D)~~ 16974
~~of this section: section 5747.022, 5747.05, 5747.054, 5747.055,~~ 16975
~~5747.27, 5747.37, 5747.66, or 5747.71 of the Revised Code. Any~~ 16976
~~other credit~~ authorized against the tax imposed by this section 16977
applies to a trust subject to division ~~(D)~~ (C) of this section 16978
~~that only if the trust~~ otherwise qualifies for ~~such a the~~ 16979
credit. To the extent that the trust distributes income for the 16980
taxable year for which a credit is available to the trust, the 16981
credit shall be shared by the trust and its beneficiaries. The 16982
tax commissioner and the trust shall be guided by applicable 16983
regulations of the United States treasury regarding the sharing 16984
of credits. 16985

~~(E)~~ (D) For the purposes of this section, "trust" means 16986
any trust described in Subchapter J of Chapter 1 of the Internal 16987
Revenue Code, excluding trusts that are not irrevocable as 16988
defined in division (I) (3) (b) of section 5747.01 of the Revised 16989
Code and that have no modified Ohio taxable income for the 16990
taxable year, charitable remainder trusts, qualified funeral 16991
trusts and preneed funeral contract trusts established pursuant 16992
to sections 4717.31 to 4717.38 of the Revised Code that are not 16993
qualified funeral trusts, endowment and perpetual care trusts, 16994

qualified settlement trusts and funds, designated settlement 16995
trusts and funds, and trusts exempted from taxation under 16996
section 501(a) of the Internal Revenue Code. 16997

~~(F)~~ (E) Nothing in division (A) (3) of this section shall 16998
prohibit an individual with an Ohio adjusted gross income, less 16999
taxable business income and exemptions, of twenty-one thousand 17000
seven hundred fifty dollars or less from filing a return under 17001
this chapter to receive a refund of taxes withheld or to claim 17002
any refundable credit allowed under this chapter. 17003

Sec. 5747.058. (A) A refundable income tax credit granted 17004
by the tax credit authority under section 122.17 or former 17005
division (B) (2) or (3) of section 122.171 of the Revised Code, 17006
as those divisions existed before the effective date of the 17007
amendment of this section by H.B. 64 of the 131st general 17008
assembly, September 29, 2015, may be claimed under this chapter, 17009
in the order required under section 5747.98 of the Revised Code. 17010
For purposes of making tax payments under this chapter, taxes 17011
equal to the amount of the refundable credit shall be considered 17012
to be paid to this state on the first day of the taxable year. 17013
The refundable credit shall not be claimed for any taxable years 17014
ending with or following the calendar year in which a relocation 17015
of employment positions occurs in violation of an agreement 17016
entered into under section 122.17 or 122.171 of the Revised 17017
Code. 17018

(B) A nonrefundable income tax credit granted by the tax 17019
credit authority under division (B) of section 122.171 of the 17020
Revised Code may be claimed under this chapter, in the order 17021
required under section 5747.98 of the Revised Code. 17022

Sec. 5747.061. (A) As used in this section: 17023

(1) "State agency" means the general assembly, all courts, 17024
any department, division, institution, board, commission, 17025
authority, bureau, or other instrumentality of the state. 17026

(2) "Political subdivision" means a county, municipal 17027
corporation, township, school district, or other body corporate 17028
and politic responsible for governmental activities in a 17029
geographic area smaller than that of the state. 17030

(3) "Legislative authority" means the board of county 17031
commissioners, the legislative authority of a municipal 17032
corporation, the board of township trustees, the board of 17033
education, or the board, council, commission, or other governing 17034
body of any other political subdivision. 17035

(4) "Fiscal officer" means the county auditor, the 17036
treasurer of the municipal corporation, the clerk-treasurer of a 17037
village, or the officer who, by virtue of the charter, has the 17038
duties of the treasurer or clerk-treasurer, the township fiscal 17039
officer, the treasurer of the board of education, or, in the 17040
case of any state agency or other subdivision, the officer or 17041
person responsible for deducting and withholding from the 17042
compensation paid to an employee who is a taxpayer the amount of 17043
tax required to be withheld by section 5747.06 of the Revised 17044
Code. 17045

(B) (1) The director or other chief administrator of any 17046
state agency, in accordance with rules adopted by the department 17047
of administrative services, may direct its fiscal officer to 17048
deduct and withhold from the compensation paid to an employee 17049
who is a resident of a state with which the commissioner has 17050
entered into an agreement under division (A) ~~(3)~~ (2) of section 17051
5747.05 of the Revised Code, a tax computed in such a manner as 17052
to result, as far as practicable, in withholding from the 17053

compensation of the employee during each calendar year an amount 17054
substantially equivalent to the tax reasonably estimated to be 17055
due under the income tax laws of the state of residence of the 17056
employee with respect to the amount of such compensation 17057
included in gross income during the calendar year under those 17058
laws. 17059

(2) The legislative authority of a political subdivision 17060
may adopt a rule, ordinance, or resolution requiring the fiscal 17061
officer of the political subdivision to deduct and withhold from 17062
the compensation paid to an employee who is a resident of a 17063
state with which the tax commissioner has entered into an 17064
agreement under division (A) ~~(3)~~ (2) of section 5747.05 of the 17065
Revised Code, a tax computed in such a manner as to result, as 17066
far as practicable, in withholding from the compensation of the 17067
employee during each calendar year an amount substantially 17068
equivalent to the tax reasonably estimated to be due under the 17069
income tax laws of the state of residence of the employee with 17070
respect to the amount of such compensation included in gross 17071
income during the calendar year under those laws. 17072

(3) Upon direction of the director or other chief 17073
administrator of a state agency, or adoption of a rule, 17074
ordinance, or resolution by a political subdivision under this 17075
division, the fiscal officer shall obtain from the official 17076
responsible for administering the income tax laws of the state 17077
of residence of the employee, information necessary to enable 17078
the fiscal officer to withhold the proper amount of tax from the 17079
compensation of the employee for the calendar year. 17080

(C) A fiscal officer who deducts and withholds tax from 17081
the compensation of a nonresident employee shall file a 17082
withholding return or other report and pay the full amount of 17083

the tax deducted and withheld as required by the income tax laws 17084
of the state of residence of the employee. 17085

(D) A fiscal officer who deducts and withholds tax from 17086
the compensation of a nonresident employee shall furnish to that 17087
employee and to the official who is responsible for 17088
administering the income tax laws of the state of residence of 17089
the employee, a written statement showing the amount of 17090
compensation paid to the employee and the amount deducted and 17091
withheld from the compensation of the employee during the 17092
calendar year. The statement shall be furnished on or before the 17093
last day of January of the succeeding year, except that, with 17094
respect to an employee whose employment is terminated, the 17095
statement for the calendar year in which the last payment of 17096
compensation is made shall be furnished within thirty days from 17097
the date the last payment of compensation is made. 17098

Sec. 5747.07. (A) As used in this section: 17099

(1) "Partial weekly withholding period" means a period 17100
during which an employer directly, indirectly, or constructively 17101
pays compensation to, or credits compensation to the benefit of, 17102
an employee, and that consists of a consecutive Saturday, 17103
Sunday, Monday, and Tuesday or a consecutive Wednesday, 17104
Thursday, and Friday. There are two partial weekly withholding 17105
periods each week, except that a partial weekly withholding 17106
period cannot extend from one calendar year into the next 17107
calendar year; if the first day of January falls on a day other 17108
than Saturday or Wednesday, the partial weekly withholding 17109
period ends on the thirty-first day of December and there are 17110
three partial weekly withholding periods during that week. 17111

(2) "Undeposited taxes" means the taxes an employer is 17112
required to deduct and withhold from an employee's compensation 17113

pursuant to section 5747.06 of the Revised Code that have not 17114
been remitted to the tax commissioner pursuant to this section 17115
or to the treasurer of state pursuant to section 5747.072 of the 17116
Revised Code. 17117

(3) A "week" begins on Saturday and concludes at the end 17118
of the following Friday. 17119

(4) "Client employer," "professional employer 17120
organization," "professional employer organization agreement," 17121
and "professional employer organization reporting entity" have 17122
the same meanings as in section 4125.01 of the Revised Code. 17123

(B) Except as provided in divisions (C) and (D) of this 17124
section and in division (A) of section 5747.072 of the Revised 17125
Code, every employer required to deduct and withhold any amount 17126
under section 5747.06 of the Revised Code shall file a return 17127
and shall pay the amount required by law as follows: 17128

(1) An employer who accumulates or is required to 17129
accumulate undeposited taxes of one hundred thousand dollars or 17130
more during a partial weekly withholding period shall make the 17131
payment of the undeposited taxes by the close of the first 17132
banking day after the day on which the accumulation reaches one 17133
hundred thousand dollars. If required under division (I) of this 17134
section, the payment shall be made by electronic funds transfer 17135
under section 5747.072 of the Revised Code. 17136

(2) ~~(a)~~ Except as required by division (B) (1) of this 17137
section, an employer ~~described in division (B) (2) (b) of this~~ 17138
~~section whose actual or required payments under this section~~ 17139
were at least eighty-four thousand dollars during the twelve- 17140
month period ending on the thirtieth day of June of the 17141
preceding calendar year shall make the payment of undeposited 17142

taxes within three banking days after the close of a partial 17143
weekly withholding period during which the employer was required 17144
to deduct and withhold any amount under this chapter. If 17145
required under division (I) of this section, the payment shall 17146
be made by electronic funds transfer under section 5747.072 of 17147
the Revised Code. 17148

~~(b) For amounts required to be deducted and withheld 17149
during 1994, an employer described in division (B) (2) (b) of this 17150
section is one whose actual or required payments under this 17151
section exceeded one hundred eighty thousand dollars during the 17152
twelve month period ending June 30, 1993. For amounts required 17153
to be deducted and withheld during 1995 and each year 17154
thereafter, an employer described in division (B) (2) (b) of this 17155
section is one whose actual or required payments under this 17156
section were at least eighty four thousand dollars during the 17157
twelve month period ending on the thirtieth day of June of the 17158
preceding calendar year. 17159~~

(3) Except as required by divisions (B) (1) and (2) of this 17160
section, if an employer's actual or required payments were more 17161
than two thousand dollars during the twelve-month period ending 17162
on the thirtieth day of June of the preceding calendar year, the 17163
employer shall make the payment of undeposited taxes for each 17164
month during which they were required to be withheld no later 17165
than fifteen days following the last day of that month. The 17166
employer shall file the return prescribed by the tax 17167
commissioner with the payment. 17168

(4) Except as required by divisions (B) (1), (2), and (3) 17169
of this section, an employer shall make the payment of 17170
undeposited taxes for each calendar quarter during which they 17171
were required to be withheld no later than the last day of the 17172

month following the last day of March, June, September, and 17173
December each year. The employer shall file the return 17174
prescribed by the tax commissioner with the payment. 17175

(C) The return and payment schedules prescribed by 17176
divisions (B) (1) and (2) of this section do not apply to the 17177
return and payment of undeposited school district income taxes 17178
arising from taxes levied pursuant to Chapter 5748. of the 17179
Revised Code. Undeposited school district income taxes shall be 17180
returned and paid pursuant to divisions (B) (3) and (4) of this 17181
section, as applicable. 17182

(D) (1) The requirements of division (B) of this section 17183
are met if the amount paid is not less than ninety-five per cent 17184
of the actual tax withheld or required to be withheld for the 17185
prior quarterly, monthly, or partial weekly withholding period, 17186
and the underpayment is not due to willful neglect. Any 17187
underpayment of withheld tax shall be paid within thirty days of 17188
the date on which the withheld tax was due without regard to 17189
division (D) (1) of this section. An employer described in 17190
division (B) (1) or (2) of this section shall make the payment by 17191
electronic funds transfer under section 5747.072 of the Revised 17192
Code. 17193

(2) If the tax commissioner believes that quarterly or 17194
monthly payments would result in a delay that might jeopardize 17195
the remittance of withholding payments, the commissioner may 17196
order that the payments be made weekly, or more frequently if 17197
necessary, and the payments shall be made no later than three 17198
banking days following the close of the period for which the 17199
jeopardy order is made. An order requiring weekly or more 17200
frequent payments shall be delivered to the employer personally 17201
or by certified mail and remains in effect until the 17202

commissioner notifies the employer to the contrary. 17203

(3) If compelling circumstances exist concerning the 17204
remittance of undeposited taxes, the commissioner may order the 17205
employer to make payments under any of the payment schedules 17206
under division (B) of this section. The order shall be delivered 17207
to the employer personally or by certified mail and shall remain 17208
in effect until the commissioner notifies the employer to the 17209
contrary. For purposes of division (D) (3) of this section, 17210
"compelling circumstances" exist if either or both of the 17211
following are true: 17212

(a) Based upon annualization of payments made or required 17213
to be made during the preceding calendar year and during the 17214
current calendar year, the employer would be required for the 17215
next calendar year to make payments under division (B) (2) of 17216
this section. 17217

(b) Based upon annualization of payments made or required 17218
to be made during the current calendar year, the employer would 17219
be required for the next calendar year to make payments under 17220
division (B) (2) of this section. 17221

(E) (1) An employer described in division (B) (1) or (2) of 17222
this section shall file, not later than the last day of the 17223
month following the end of each calendar quarter, a return 17224
covering, but not limited to, both the actual amount deducted 17225
and withheld and the amount required to be deducted and withheld 17226
for the tax imposed under section 5747.02 of the Revised Code 17227
during each partial weekly withholding period or portion of a 17228
partial weekly withholding period during that quarter. The 17229
employer shall file the quarterly return even if the aggregate 17230
amount required to be deducted and withheld for the quarter is 17231
zero dollars. At the time of filing the return, the employer 17232

shall pay any amounts of undeposited taxes for the quarter, 17233
whether actually deducted and withheld or required to be 17234
deducted and withheld, that have not been previously paid. If 17235
required under division (I) of this section, the payment shall 17236
be made by electronic funds transfer. The tax commissioner shall 17237
prescribe the form and other requirements of the quarterly 17238
return. 17239

(2) In addition to other returns required to be filed and 17240
payments required to be made under this section, every employer 17241
required to deduct and withhold taxes shall file, not later than 17242
the thirty-first day of January of each year, an annual return 17243
covering, but not limited to, both the aggregate amount deducted 17244
and withheld and the aggregate amount required to be deducted 17245
and withheld during the entire preceding year for the tax 17246
imposed under section 5747.02 of the Revised Code and for each 17247
tax imposed under Chapter 5748. of the Revised Code. At the time 17248
of filing that return, the employer shall pay over any amounts 17249
of undeposited taxes for the preceding year, whether actually 17250
deducted and withheld or required to be deducted and withheld, 17251
that have not been previously paid. The employer shall make the 17252
annual report, to each employee and to the tax commissioner, of 17253
the compensation paid and each tax withheld, as the commissioner 17254
by rule may prescribe. 17255

Each employer required to deduct and withhold any tax is 17256
liable for the payment of that amount required to be deducted 17257
and withheld, whether or not the tax has in fact been withheld, 17258
unless the failure to withhold was based upon the employer's 17259
good faith in reliance upon the statement of the employee as to 17260
liability, and the amount shall be deemed to be a special fund 17261
in trust for the general revenue fund. 17262

(F) Each employer shall file with the employer's annual	17263
return the following items of information on employees for whom	17264
withholding is required under section 5747.06 of the Revised	17265
Code:	17266
(1) The full name of each employee, the employee's	17267
address, the employee's school district of residence, and in the	17268
case of a nonresident employee, the employee's principal county	17269
of employment;	17270
(2) The social security number of each employee;	17271
(3) The total amount of compensation paid before any	17272
deductions to each employee for the period for which the annual	17273
return is made;	17274
(4) The amount of the tax imposed by section 5747.02 of	17275
the Revised Code and the amount of each tax imposed under	17276
Chapter 5748. of the Revised Code withheld from the compensation	17277
of the employee for the period for which the annual return is	17278
made. The commissioner may extend upon good cause the period for	17279
filing any notice or return required to be filed under this	17280
section and may adopt rules relating to extensions of time. If	17281
the extension results in an extension of time for the payment of	17282
the amounts withheld with respect to which the return is filed,	17283
the employer shall pay, at the time the amount withheld is paid,	17284
an amount of interest computed at the rate per annum prescribed	17285
by section 5703.47 of the Revised Code on that amount withheld,	17286
from the day that amount was originally required to be paid to	17287
the day of actual payment or to the day an assessment is issued	17288
under section 5747.13 of the Revised Code, whichever occurs	17289
first.	17290
(5) In addition to all other interest charges and	17291

penalties imposed, all amounts of taxes withheld or required to 17292
be withheld and remaining unpaid after the day the amounts are 17293
required to be paid shall bear interest from the date prescribed 17294
for payment at the rate per annum prescribed by section 5703.47 17295
of the Revised Code on the amount unpaid, in addition to the 17296
amount withheld, until paid or until the day an assessment is 17297
issued under section 5747.13 of the Revised Code, whichever 17298
occurs first. 17299

(G) An employee of a corporation, limited liability 17300
company, or business trust having control or supervision of or 17301
charged with the responsibility of filing the report and making 17302
payment, or an officer, member, manager, or trustee of a 17303
corporation, limited liability company, or business trust who is 17304
responsible for the execution of the corporation's, limited 17305
liability company's, or business trust's fiscal 17306
responsibilities, shall be personally liable for failure to file 17307
the report or pay the tax due as required by this section. The 17308
dissolution, termination, or bankruptcy of a corporation, 17309
limited liability company, or business trust does not discharge 17310
a responsible officer's, member's, manager's, employee's, or 17311
trustee's liability for a failure of the corporation, limited 17312
liability company, or business trust to file returns or pay tax 17313
due. 17314

(H) If an employer required to deduct and withhold income 17315
tax from compensation and to pay that tax to the state under 17316
sections 5747.06 and 5747.07 of the Revised Code sells the 17317
employer's business or stock of merchandise or quits the 17318
employer's business, the taxes required to be deducted and 17319
withheld and paid to the state pursuant to those sections prior 17320
to that time, together with any interest and penalties imposed 17321
on those taxes, become due and payable immediately, and that 17322

person shall make a final return within fifteen days after the 17323
date of selling or quitting business. The employer's successor 17324
shall withhold a sufficient amount of the purchase money to 17325
cover the amount of the taxes, interest, and penalties due and 17326
unpaid, until the former owner produces a receipt from the tax 17327
commissioner showing that the taxes, interest, and penalties 17328
have been paid or a certificate indicating that no such taxes 17329
are due. If the purchaser of the business or stock of 17330
merchandise fails to withhold purchase money, the purchaser 17331
shall be personally liable for the payment of the taxes, 17332
interest, and penalties accrued and unpaid during the operation 17333
of the business by the former owner. If the amount of taxes, 17334
interest, and penalties outstanding at the time of the purchase 17335
exceeds the total purchase money, the tax commissioner in the 17336
commissioner's discretion may adjust the liability of the seller 17337
or the responsibility of the purchaser to pay that liability to 17338
maximize the collection of withholding tax revenue. 17339

~~(I)(1) An employer described in division (I)(2) of this~~ 17340
~~section whose actual or required payments under this section~~ 17341
~~exceeded eighty-four thousand dollars during the twelve-month~~ 17342
~~period ending on the thirtieth day of June of the preceding~~ 17343
~~calendar year shall make all payments required by this section~~ 17344
for the year by electronic funds transfer under section 5747.072 17345
of the Revised Code. 17346

~~(2)(a) For 1994, an employer described in division (I)(2)~~ 17347
~~of this section is one whose actual or required payments under~~ 17348
~~this section exceeded five hundred thousand dollars during the~~ 17349
~~twelve-month period ending June 30, 1993.~~ 17350

~~(b) For 1995, an employer described in division (I)(2) of~~ 17351
~~this section is one whose actual or required payments under this~~ 17352

~~section exceeded five hundred thousand dollars during the~~ 17353
~~twelve month period ending June 30, 1994.~~ 17354

~~(c) For 1996, an employer described in division (I) (2) of~~ 17355
~~this section is one whose actual or required payments under this~~ 17356
~~section exceeded three hundred thousand dollars during the~~ 17357
~~twelve month period ending June 30, 1995.~~ 17358

~~(d) For 1997 through 2000, an employer described in~~ 17359
~~division (I) (2) of this section is one whose actual or required~~ 17360
~~payments under this section exceeded one hundred eighty thousand~~ 17361
~~dollars during the twelve month period ending on the thirtieth~~ 17362
~~day of June of the preceding calendar year.~~ 17363

~~(e) For 2001 and thereafter, an employer described in~~ 17364
~~division (I) (2) of this section is one whose actual or required~~ 17365
~~payments under this section exceeded eighty four thousand~~ 17366
~~dollars during the twelve month period ending on the thirtieth~~ 17367
~~day of June of the preceding calendar year.~~ 17368

(J) (1) Every professional employer organization and every 17369
professional employer organization reporting entity shall file a 17370
report with the tax commissioner within thirty days after 17371
commencing business in this state ~~or within thirty days after~~ 17372
~~the effective date of this amendment, whichever is later, that~~ 17373
includes all of the following information: 17374

(a) The name, address, number the employer receives from 17375
the secretary of state to do business in this state, if 17376
applicable, and federal employer identification number of each 17377
client employer of the professional employer organization or 17378
professional employer organization reporting entity; 17379

(b) The date that each client employer became a client of 17380
the professional employer organization or professional employer 17381

organization reporting entity; 17382

(c) The names and mailing addresses of the chief executive 17383
officer and the chief financial officer of each client employer 17384
for taxation of the client employer. 17385

(2) Beginning with the calendar quarter ending after a 17386
professional employer organization or professional employer 17387
organization reporting entity files the report required under 17388
division (J)(1) of this section, and every calendar quarter 17389
thereafter, the professional employer organization or the 17390
professional employer organization reporting entity shall file 17391
an updated report with the tax commissioner. The professional 17392
employer organization or professional employer organization 17393
reporting entity shall file the updated report not later than 17394
the last day of the month following the end of the calendar 17395
quarter and shall include all of the following information in 17396
the report: 17397

(a) If an entity became a client employer of the 17398
professional employer organization or professional employer 17399
organization reporting entity at any time during the calendar 17400
quarter, all of the information required under division (J)(1) 17401
of this section for each new client employer; 17402

(b) If an entity terminated the professional employer 17403
organization agreement between the professional employer 17404
organization or professional employer organization reporting 17405
entity and the entity at any time during the calendar quarter, 17406
the information described in division (J)(1)(a) of this section 17407
for that entity, the date during the calendar quarter that the 17408
entity ceased being a client of the professional employer 17409
organization or professional employer organization reporting 17410
entity, if applicable, or the date the entity ceased business 17411

operations in this state, if applicable; 17412

(c) If the name or mailing address of the chief executive 17413
officer or the chief financial officer of a client employer has 17414
changed since the professional employer organization or 17415
professional employer organization reporting entity previously 17416
submitted a report under division (J) (1) or (2) of this section, 17417
the updated name or mailing address, or both, of the chief 17418
executive officer or the chief financial officer, as applicable; 17419

(d) If none of the events described in divisions (J) (2) (a) 17420
to (c) of this section occurred during the calendar quarter, a 17421
statement of that fact. 17422

Sec. 5747.082. (A) As used in this section: 17423

(1) "Electronic technology" means electronic technology 17424
acceptable to the tax commissioner under division (B) of this 17425
section. 17426

(2) "Original tax return" means any report, return, or 17427
other tax document required to be filed under this chapter for 17428
the purpose of reporting the taxes due under, and withholdings 17429
required by, this chapter. "Original tax return" does not 17430
include an amended return or any declaration or form required by 17431
or filed in connection with section 5747.09 of the Revised Code. 17432

(3) "Related member" has the same meaning as in section 17433
5733.042 of the Revised Code. 17434

(4) "Tax return preparer" means any person that operates a 17435
business that prepares, or directly or indirectly employs 17436
another person to prepare, for a taxpayer an original tax return 17437
in exchange for compensation or remuneration from the taxpayer 17438
or the taxpayer's related member. With respect to the 17439
preparation of a return or application for refund under this 17440

chapter, "tax return preparer" does not include an individual 17441
who performs only one or more of the following activities: 17442

(a) Furnishes typing, reproducing, or other mechanical 17443
assistance; 17444

(b) Prepares an application for refund or a return on 17445
behalf of an employer by whom the individual is regularly and 17446
continuously employed, or on behalf of an officer or employee of 17447
that employer; 17448

(c) Prepares as a fiduciary an application for refund or a 17449
return; 17450

(d) Prepares an application for refund or a return for a 17451
taxpayer in response to a notice of deficiency issued to the 17452
taxpayer or the taxpayer's related member, or in response to a 17453
waiver of restriction after the commencement of an audit of the 17454
taxpayer or the taxpayer's related member. 17455

(B) Divisions (C) and (D) of this section apply to the 17456
filing of original tax returns that are due in a calendar year 17457
only if the tax commissioner, by the last day of the calendar 17458
year immediately preceding the calendar year in which such 17459
returns are due, has published on the department of taxation's 17460
official internet web site at least one method of electronic 17461
technology acceptable to the commissioner for filing such 17462
returns. 17463

(C) A tax return preparer that prepares more than ~~seventy-~~ 17464
~~five original tax returns during any calendar year that ends-~~ 17465
~~before January 1, 2013, or that prepares more than eleven~~ 17466
~~original tax returns during any calendar year that begins on or-~~ 17467
~~after January 1, 2013,~~ shall use electronic technology to file 17468
with the tax commissioner all original tax returns prepared by 17469

the tax return preparer. ~~This division does not apply to a tax-~~ 17470
~~return preparer in any calendar year that ends before January 1,~~ 17471
~~2013, if, during the previous calendar year, the tax return-~~ 17472
~~preparer prepared no more than twenty-five original tax returns.~~ 17473
This division does not apply to a tax return preparer in any 17474
calendar year ~~that begins on or after January 1, 2013, if,~~ 17475
during the previous calendar year, the tax return preparer 17476
prepared not more than ten original tax returns. 17477

(D) If a tax return preparer required by this section to 17478
submit original tax returns by electronic technology files an 17479
original tax return by some means other than by electronic 17480
technology, the tax commissioner shall impose a penalty of fifty 17481
dollars for each return, ~~in excess of seventy five in calendar-~~ 17482
~~year 2010, 2011, or 2012, or~~ in excess of eleven in any 17483
calendar year ~~thereafter,~~ that is not filed by electronic 17484
technology. Upon good cause shown by the tax return preparer, 17485
the tax commissioner may waive all or any portion of the penalty 17486
or may refund all or any portion of the penalty the tax return 17487
preparer has paid. 17488

Sec. 5747.11. (A) The tax commissioner shall refund to 17489
employers, qualifying entities, or taxpayers subject to a tax 17490
imposed under section 5733.41, 5747.02, or 5747.41, or Chapter 17491
5748. of the Revised Code the amount of any overpayment of such 17492
tax. 17493

(B) Except as otherwise provided under divisions (D) and 17494
(E) of this section, applications for refund shall be filed with 17495
the tax commissioner, on the form prescribed by the 17496
commissioner, within four years from the date of the illegal, 17497
erroneous, or excessive payment of the tax, or within any 17498
additional period allowed by division (B) (3) (b) of section 17499

5747.05, division (E) of section 5747.10, division (A) of 17500
section 5747.13, or division (C) of section 5747.45 of the 17501
Revised Code. 17502

On filing of the refund application, the commissioner 17503
shall determine the amount of refund due and, if that amount 17504
exceeds one dollar, certify such amount to the director of 17505
budget and management and treasurer of state for payment from 17506
the tax refund fund created by section 5703.052 of the Revised 17507
Code. Payment shall be made as provided in division (C) of 17508
section 126.35 of the Revised Code. 17509

(C) (1) Interest shall be allowed and paid at the rate per 17510
annum prescribed by section 5703.47 of the Revised Code on 17511
amounts refunded with respect to the tax imposed under section 17512
5747.02 or Chapter 5748. of the Revised Code from the date of 17513
the overpayment until the date of the refund of the overpayment, 17514
except that if any overpayment is refunded within ninety days 17515
after the final filing date of the annual return or ninety days 17516
after the return is filed, whichever is later, no interest shall 17517
be allowed on such overpayment. If the overpayment results from 17518
the carryback of a net operating loss or net capital loss to a 17519
previous taxable year, the overpayment is deemed not to have 17520
been made prior to the filing date, including any extension 17521
thereof, for the taxable year in which the net operating loss or 17522
net capital loss arises. For purposes of the payment of interest 17523
on overpayments, no amount of tax, for any taxable year, shall 17524
be treated as having been paid before the date on which the tax 17525
return for that year was due without regard to any extension of 17526
time for filing such return. 17527

(2) Interest shall be allowed at the rate per annum 17528
prescribed by section 5703.47 of the Revised Code on amounts 17529

refunded with respect to the taxes imposed under sections 17530
5733.41 and 5747.41 of the Revised Code. The interest shall run 17531
from whichever of the following days is the latest until the day 17532
the refund is paid: the day the illegal, erroneous, or excessive 17533
payment was made; the ninetieth day after the final day the 17534
annual report was required to be filed under section 5747.42 of 17535
the Revised Code; or the ninetieth day after the day that report 17536
was filed. 17537

(D) "Ninety days" shall be substituted for "four years" in 17538
division (B) of this section if the taxpayer satisfies both of 17539
the following conditions: 17540

(1) The taxpayer has applied for a refund based in whole 17541
or in part upon section 5747.059 of the Revised Code; 17542

(2) The taxpayer asserts that either the imposition or 17543
collection of the tax imposed or charged by this chapter or any 17544
portion of such tax violates the Constitution of the United 17545
States or the Constitution of Ohio. 17546

(E) (1) Division (E) (2) of this section applies only if all 17547
of the following conditions are satisfied: 17548

(a) A qualifying entity pays an amount of the tax imposed 17549
by section 5733.41 or 5747.41 of the Revised Code; 17550

(b) The taxpayer is a qualifying investor as to that 17551
qualifying entity; 17552

(c) The taxpayer did not claim the credit provided for in 17553
section 5747.059 of the Revised Code as to the tax described in 17554
division (E) (1) (a) of this section; 17555

(d) The four-year period described in division (B) of this 17556
section has ended as to the taxable year for which the taxpayer 17557

otherwise would have claimed that credit. 17558

(2) A taxpayer shall file an application for refund 17559
pursuant to division (E) of this section within one year after 17560
the date the payment described in division (E)(1)(a) of this 17561
section is made. An application filed under division (E)(2) of 17562
this section shall claim refund only of overpayments resulting 17563
from the taxpayer's failure to claim the credit described in 17564
division (E)(1)(c) of this section. Nothing in division (E) of 17565
this section shall be construed to relieve a taxpayer from 17566
complying with division ~~(A)(16)~~ (A)(15) of section 5747.01 of 17567
the Revised Code. 17568

Sec. 5747.231. As used in this section, "adjusted 17569
qualifying amount" has the same meaning as in section 5733.40 of 17570
the Revised Code. 17571

This section does not apply to division ~~(BB)~~ (AA) (5) (a) (ii) 17572
of section 5747.01 of the Revised Code. 17573

Except as set forth in this section and except as 17574
otherwise provided in divisions (A) and (B) of section 5733.401 17575
of the Revised Code, in making all apportionment, allocation, 17576
income, gain, loss, deduction, tax, and credit computations 17577
under this chapter, each person shall include in that person's 17578
items of business income, nonbusiness income, adjusted 17579
qualifying amounts, allocable income or loss, apportionable 17580
income or loss, property, compensation, and sales, the person's 17581
entire distributive share or proportionate share of the items of 17582
business income, nonbusiness income, adjusted qualifying 17583
amounts, allocable income or loss, apportionable income or loss, 17584
property, compensation, and sales of any pass-through entity in 17585
which the person has a direct or indirect ownership interest at 17586
any time during the person's taxable year. A pass-through 17587

entity's direct or indirect distributive share or proportionate 17588
share of any other pass-through entity's items of business 17589
income, nonbusiness income, adjusted qualifying amounts, 17590
allocable income or loss, apportionable income or loss, 17591
property, compensation, and sales shall be included for the 17592
purposes of computing the person's distributive share or 17593
proportionate share of the pass-through entity's items of 17594
business income, nonbusiness income, adjusted qualifying 17595
amounts, allocable income or loss, apportionable income or loss, 17596
property, compensation, and sales under this section. Those 17597
items shall be in the same form as was recognized by the pass- 17598
through entity. 17599

Sec. 5747.41. For the same purposes for which the tax is 17600
levied under section 5747.02 of the Revised Code, there is 17601
hereby levied a withholding tax on every qualifying pass-through 17602
entity having at least one qualifying investor who is an 17603
individual and on every qualifying trust having at least one 17604
qualifying beneficiary who is an individual. The withholding tax 17605
imposed by this section is imposed on the sum of the adjusted 17606
qualifying amounts of a qualifying pass-through entity's 17607
qualifying investors who are individuals and on the sum of the 17608
adjusted qualifying amounts of a qualifying trust's qualifying 17609
beneficiaries, at the rate of five per cent of that sum. 17610

The tax imposed by this section applies only if the 17611
qualifying entity has nexus with this state under the 17612
Constitution of the United States for any portion of the 17613
qualifying entity's qualifying taxable year, and the sum of the 17614
qualifying entity's adjusted qualifying amounts exceeds one 17615
thousand dollars for the qualifying entity's qualifying taxable 17616
year. 17617

~~The levy of the tax under this section does not prevent a~~ 17618
~~municipal corporation or a joint economic development district~~ 17619
~~created under section 715.70, 715.71, or 715.72 of the Revised~~ 17620
~~Code from levying a tax on income.~~ 17621

Sec. 5747.51. (A) On or before the twenty-fifth day of 17622
July of each year, the tax commissioner shall make and certify 17623
to the county auditor of each county an estimate of the amount 17624
of the local government fund to be allocated to the undivided 17625
local government fund of each county for the ensuing calendar 17626
year, adjusting the total as required to account for 17627
subdivisions receiving local government funds under section 17628
5747.502 of the Revised Code. 17629

(B) At each annual regular session of the county budget 17630
commission convened pursuant to section 5705.27 of the Revised 17631
Code, each auditor shall present to the commission the 17632
certificate of the commissioner, the annual tax budget and 17633
estimates, and the records showing the action of the commission 17634
in its last preceding regular session. The commission, after 17635
extending to the representatives of each subdivision an 17636
opportunity to be heard, under oath administered by any member 17637
of the commission, and considering all the facts and information 17638
presented to it by the auditor, shall determine the amount of 17639
the undivided local government fund needed by and to be 17640
apportioned to each subdivision for current operating expenses, 17641
as shown in the tax budget of the subdivision. This 17642
determination shall be made pursuant to divisions (C) to (I) of 17643
this section, unless the commission has provided for a formula 17644
pursuant to section 5747.53 of the Revised Code. The 17645
commissioner shall reduce the amount of funds from the undivided 17646
local government fund to a subdivision required to receive 17647
reduced funds under section 5747.502 of the Revised Code. 17648

Nothing in this section prevents the budget commission, 17649
for the purpose of apportioning the undivided local government 17650
fund, from inquiring into the claimed needs of any subdivision 17651
as stated in its tax budget, or from adjusting claimed needs to 17652
reflect actual needs. For the purposes of this section, "current 17653
operating expenses" means the lawful expenditures of a 17654
subdivision, except those for permanent improvements and except 17655
payments for interest, sinking fund, and retirement of bonds, 17656
notes, and certificates of indebtedness of the subdivision. 17657

(C) The commission shall determine the combined total of 17658
the estimated expenditures, including transfers, from the 17659
general fund and any special funds other than special funds 17660
established for road and bridge; street construction, 17661
maintenance, and repair; state highway improvement; and gas, 17662
water, sewer, and electric public utilities operated by a 17663
subdivision, as shown in the subdivision's tax budget for the 17664
ensuing calendar year. 17665

(D) From the combined total of expenditures calculated 17666
pursuant to division (C) of this section, the commission shall 17667
deduct the following expenditures, if included in these funds in 17668
the tax budget: 17669

(1) Expenditures for permanent improvements as defined in 17670
division (E) of section 5705.01 of the Revised Code; 17671

(2) In the case of counties and townships, transfers to 17672
the road and bridge fund, and in the case of municipalities, 17673
transfers to the street construction, maintenance, and repair 17674
fund and the state highway improvement fund; 17675

(3) Expenditures for the payment of debt charges; 17676

(4) Expenditures for the payment of judgments. 17677

(E) In addition to the deductions made pursuant to 17678
division (D) of this section, revenues accruing to the general 17679
fund and any special fund considered under division (C) of this 17680
section from the following sources shall be deducted from the 17681
combined total of expenditures calculated pursuant to division 17682
(C) of this section: 17683

(1) Taxes levied within the ten-mill limitation, as 17684
defined in section 5705.02 of the Revised Code; 17685

(2) The budget commission allocation of estimated county 17686
public library fund revenues to be distributed pursuant to 17687
section 5747.48 of the Revised Code; 17688

(3) Estimated unencumbered balances as shown on the tax 17689
budget as of the thirty-first day of December of the current 17690
year in the general fund, but not any estimated balance in any 17691
special fund considered in division (C) of this section; 17692

(4) Revenue, including transfers, shown in the general 17693
fund and any special funds other than special funds established 17694
for road and bridge; street construction, maintenance, and 17695
repair; state highway improvement; and gas, water, sewer, and 17696
electric public utilities, from all other sources except those 17697
that a subdivision receives from an additional tax or service 17698
charge voted by its electorate or receives from special 17699
assessment or revenue bond collection. For the purposes of this 17700
division, where the charter of a municipal corporation prohibits 17701
the levy of an income tax, an income tax levied by the 17702
legislative authority of such municipal corporation pursuant to 17703
an amendment of the charter of that municipal corporation to 17704
authorize such a levy represents an additional tax voted by the 17705
electorate of that municipal corporation. For the purposes of 17706
this division, any measure adopted by a board of county 17707

commissioners pursuant to section 322.02, 4504.02, or 5739.021 17708
of the Revised Code, including those measures upheld by the 17709
electorate in a referendum conducted pursuant to section 17710
322.021, 4504.021, or 5739.022 of the Revised Code, shall not be 17711
considered an additional tax voted by the electorate. 17712

Subject to division ~~(G)~~(F) of section 5705.29 of the 17713
Revised Code, money in a reserve balance account established by 17714
a county, township, or municipal corporation under section 17715
5705.13 of the Revised Code shall not be considered an 17716
unencumbered balance or revenue under division (E) (3) or (4) of 17717
this section. Money in a reserve balance account established by 17718
a township under section 5705.132 of the Revised Code shall not 17719
be considered an unencumbered balance or revenue under division 17720
(E) (3) or (4) of this section. 17721

If a county, township, or municipal corporation has 17722
created and maintains a nonexpendable trust fund under section 17723
5705.131 of the Revised Code, the principal of the fund, and any 17724
additions to the principal arising from sources other than the 17725
reinvestment of investment earnings arising from such a fund, 17726
shall not be considered an unencumbered balance or revenue under 17727
division (E) (3) or (4) of this section. Only investment earnings 17728
arising from investment of the principal or investment of such 17729
additions to principal may be considered an unencumbered balance 17730
or revenue under those divisions. 17731

(F) The total expenditures calculated pursuant to division 17732
(C) of this section, less the deductions authorized in divisions 17733
(D) and (E) of this section, shall be known as the "relative 17734
need" of the subdivision, for the purposes of this section. 17735

(G) The budget commission shall total the relative need of 17736
all participating subdivisions in the county, and shall compute 17737

a relative need factor by dividing the total estimate of the undivided local government fund by the total relative need of all participating subdivisions.

(H) The relative need of each subdivision shall be multiplied by the relative need factor to determine the proportionate share of the subdivision in the undivided local government fund of the county; provided, that the maximum proportionate share of a county shall not exceed the following maximum percentages of the total estimate of the undivided local government fund governed by the relationship of the percentage of the population of the county that resides within municipal corporations within the county to the total population of the county as reported in the reports on population in Ohio by the department of development as of the twentieth day of July of the year in which the tax budget is filed with the budget commission:

	1	2
A	Percentage of municipal population within the county:	Percentage share of the county shall not exceed:
B	Less than forty-one per cent	Sixty per cent
C	Forty-one per cent or more but less than eighty-one per cent	Fifty per cent
D	Eighty-one per cent or more	Thirty per cent

Where the proportionate share of the county exceeds the limitations established in this division, the budget commission

shall adjust the proportionate shares determined pursuant to 17757
this division so that the proportionate share of the county does 17758
not exceed these limitations, and it shall increase the 17759
proportionate shares of all other subdivisions on a pro rata 17760
basis. In counties having a population of less than one hundred 17761
thousand, not less than ten per cent shall be distributed to the 17762
townships therein. 17763

(I) The proportionate share of each subdivision in the 17764
undivided local government fund determined pursuant to division 17765
(H) of this section for any calendar year shall not be less than 17766
the product of the average of the percentages of the undivided 17767
local government fund of the county as apportioned to that 17768
subdivision for the calendar years 1968, 1969, and 1970, 17769
multiplied by the total amount of the undivided local government 17770
fund of the county apportioned pursuant to former section 17771
~~5735.23~~5739.23 of the Revised Code for the calendar year 1970. 17772
For the purposes of this division, the total apportioned amount 17773
for the calendar year 1970 shall be the amount actually 17774
allocated to the county in 1970 from the state collected 17775
intangible tax as levied by section 5707.03 of the Revised Code 17776
and distributed pursuant to section 5725.24 of the Revised Code, 17777
plus the amount received by the county in the calendar year 1970 17778
pursuant to division (B)(1) of former section 5739.21 of the 17779
Revised Code, and distributed pursuant to former section 5739.22 17780
of the Revised Code. If the total amount of the undivided local 17781
government fund for any calendar year is less than the amount of 17782
the undivided local government fund apportioned pursuant to 17783
former section 5739.23 of the Revised Code for the calendar year 17784
1970, the minimum amount guaranteed to each subdivision for that 17785
calendar year pursuant to this division shall be reduced on a 17786
basis proportionate to the amount by which the amount of the 17787

undivided local government fund for that calendar year is less 17788
than the amount of the undivided local government fund 17789
apportioned for the calendar year 1970. 17790

(J) On the basis of such apportionment, the county auditor 17791
shall compute the percentage share of each such subdivision in 17792
the undivided local government fund and shall at the same time 17793
certify to the tax commissioner the percentage share of the 17794
county as a subdivision. No payment shall be made from the 17795
undivided local government fund, except in accordance with such 17796
percentage shares. 17797

Within ten days after the budget commission has made its 17798
apportionment, whether conducted pursuant to section 5747.51 or 17799
5747.53 of the Revised Code, the auditor shall publish a list of 17800
the subdivisions and the amount each is to receive from the 17801
undivided local government fund and the percentage share of each 17802
subdivision, in a newspaper or newspapers of countywide 17803
circulation, and send a copy of such allocation to the tax 17804
commissioner. 17805

The county auditor shall also send a copy of such 17806
allocation by ordinary or electronic mail to the fiscal officer 17807
of each subdivision entitled to participate in the allocation of 17808
the undivided local government fund of the county. This copy 17809
shall constitute the official notice of the commission action 17810
referred to in section 5705.37 of the Revised Code. 17811

All money received into the treasury of a subdivision from 17812
the undivided local government fund in a county treasury shall 17813
be paid into the general fund and used for the current operating 17814
expenses of the subdivision. 17815

If a municipal corporation maintains a municipal 17816

university, such municipal university, when the board of 17817
trustees so requests the legislative authority of the municipal 17818
corporation, shall participate in the money apportioned to such 17819
municipal corporation from the total local government fund, 17820
however created and constituted, in such amount as requested by 17821
the board of trustees, provided such sum does not exceed nine 17822
per cent of the total amount paid to the municipal corporation. 17823

If any public official fails to maintain the records 17824
required by sections 5747.50 to 5747.55 of the Revised Code or 17825
by the rules issued by the tax commissioner, the auditor of 17826
state, or the treasurer of state pursuant to such sections, or 17827
fails to comply with any law relating to the enforcement of such 17828
sections, the local government fund money allocated to the 17829
county may be withheld until such time as the public official 17830
has complied with such sections or such law or the rules issued 17831
pursuant thereto. 17832

Sec. 5747.52. The form used by the county budget 17833
commission to calculate subdivision shares of the undivided 17834
local government fund as apportioned pursuant to section 5747.51 17835
of the Revised Code shall be as follows: 17836

Calculation of (name of subdivision) share of undivided local 17837
government fund for (name of county) county 17838

17839

1

2

A Authorized expenditure for subdivision Total

B 1. Estimated expenditures from general fund _____

C	2. Estimated expenditures from special funds other than those established for road and bridge, street construction, maintenance, and state highway improvement, and for gas, water, sewer, and electric public utilities	_____
D	3. Total	_____
E	Deductions from authorized expenditures	
F	4. Expenditures for permanent improvements	_____
G	5. Transfers to road and bridge fund (counties and townships only)	_____
H	6. Transfers to street construction, maintenance, and repair, and state highway improvements funds	_____
I	7. Expenditures for the payment of debt charges	_____
J	8. Expenditures for the payment of judgments	_____
K	9. Taxes levied inside the "ten-mill limitation"	_____
L	10. Budget commission allocation of estimated county public library fund revenues	_____
M	11. Estimated unencumbered - <u>unencumbered</u> balances as of December 31 of current year in the general funds as stated in the tax budget	_____
N	12. Revenue, including transfers, shown in the general fund or any special funds other than special funds established for road and bridge, street construction, maintenance, and repair, and state highway improvement, and for gas, water,	_____

sewer, and electric public utilities, from all other sources except those from additional taxes or service charges voted by electorate as defined in division (E) (4) of section 5747.51 of the Revised Code, and except revenue from special assessment and revenue bond collections

- O 13. Total _____
- P Calculation of subdivision share
- Q 14. Relative need of subdivision (line 3 less line 13) _____
- R 15. Relative need factor for county (total estimate of undivided local government fund divided by total relative need of all participating subdivisions) _____
- S 16. Proportionate share of subdivision (relative need of subdivision multiplied by relative need factor) _____
- T 17. After any adjustments necessary to comply with statutory maximum share allowable to county _____
- U 18. After any adjustments necessary to comply with statutory minimum share allowable to townships _____
- V 19. After any adjustments necessary to comply with minimum guarantee in division (I) of section 5747.51 of the Revised Code _____
- W 20. Proportionate share of subdivision (line 16, 17, 18, or 19, whichever is appropriate) _____

Sec. 5747.55. The action of the county budget commission 17840
under ~~sections~~ section 5747.51 and ~~5747.62~~ of the Revised Code 17841

may be appealed to the board of tax appeals in the manner and 17842
with the effect provided in section 5705.37 of the Revised Code, 17843
in accordance with the following rules: 17844

(A) The notice of appeal shall be signed by the authorized 17845
fiscal officer and shall set forth in clear and concise 17846
language: 17847

(1) A statement of the action of the budget commission 17848
appealed from, and the date of the receipt by the subdivision of 17849
the official certificate or notice of such action; 17850

(2) The error or errors the taxing district believes the 17851
budget commission made; 17852

(3) The specific relief sought by the taxing district. 17853

(B) The notice of appeal shall have attached thereto: 17854

(1) A certified copy of the resolution of the taxing 17855
authority authorizing the fiscal officer to file the appeal; 17856

(2) An exact copy of the official certificate, or notice 17857
of the action of the budget commission appealed from; 17858

(3) An exact copy of the budget request filed with the 17859
budget commission by the complaining subdivision, with the date 17860
of filing noted thereon. 17861

(C) There shall also be attached to the notice of appeal a 17862
statement showing: 17863

(1) The name of the fund involved, the total amount in 17864
dollars allocated, and the exact amount in dollars allocated to 17865
each participating subdivision; 17866

(2) The amount in dollars which the complaining 17867
subdivision believes it should have received; 17868

(3) The name of each participating subdivision, as well as 17869
the name and address of the fiscal officer thereof, that the 17870
complaining subdivision believes received more than its proper 17871
share of the allocation, and the exact amount in dollars of such 17872
alleged over-allocation. 17873

(D) Only the participating subdivisions named pursuant to 17874
division (C) of this section are to be considered as appellees 17875
before the board of tax appeals and no change shall, in any 17876
amount, be made in the amount allocated to participating 17877
subdivisions not appellees. 17878

(E) The total of the undivided local government fund or 17879
undivided local government revenue assistance fund to be 17880
allocated by the board of tax appeals upon appeal is the total 17881
of that fund allocated by the budget commission to those 17882
subdivisions which are appellants and appellees before the board 17883
of tax appeals. 17884

Sec. 5747.98. (A) To provide a uniform procedure for 17885
calculating a taxpayer's aggregate tax liability under section 17886
5747.02 of the Revised Code, a taxpayer shall claim any credits 17887
to which the taxpayer is entitled in the following order: 17888

~~(1)~~—Either the retirement income credit under division (B) 17889
of section 5747.055 of the Revised Code or the lump sum 17890
retirement income credits under divisions (C), (D), and (E) of 17891
that section; 17892

~~(2)~~—Either the senior citizen credit under division (F) of 17893
section 5747.055 of the Revised Code or the lump sum 17894
distribution credit under division (G) of that section; 17895

~~(3)~~—The dependent care credit under section 5747.054 of 17896
the Revised Code; 17897

(4) —The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	17898 17899
(5) —The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	17900 17901
(6) —The joint filing credit under division (G) of section 5747.05 of the Revised Code;	17902 17903
(7) —The earned income credit under section 5747.71 of the Revised Code;	17904 17905
(8) —The credit for adoption of a minor child under section 5747.37 of the Revised Code;	17906 17907
(9) —The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	17908 17909
(10) —The enterprise zone credit under section 5709.66 of the Revised Code;	17910 17911
(11) —The ethanol plant investment credit under section 5747.75 of the Revised Code;	17912 17913
(12) —The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	17914 17915
(13) —The small business investment credit under section 5747.81 of the Revised Code;	17916 17917
(14) —The nonrefundable lead abatement credit under section 5747.26 of the Revised Code;	17918 17919
(15) —The opportunity zone investment credit under section 122.84 of the Revised Code;	17920 17921
(16) —The enterprise zone credits under section 5709.65 of the Revised Code;	17922 17923

(17) —The research and development credit under section 5747.331 of the Revised Code;	17924 17925
(18) —The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	17926 17927
(19) —The nonresident credit under division (A) of section 5747.05 of the Revised Code;	17928 17929
(20) —The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	17930 17931
(21) —The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code;	17932 17933
(22) —The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	17934 17935 17936
(23) —The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	17937 17938
(24) —The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	17939 17940 17941
(25) —The refundable credit under section 5747.80 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;	17942 17943 17944 17945
(26) —The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code.	17946 17947
(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (H) of section 5747.08 of the Revised Code, the amount of the	17948 17949 17950

credit for a taxable year shall not exceed the taxpayer's 17951
aggregate amount of tax due under section 5747.02 of the Revised 17952
Code, after allowing for any other credit that precedes it in 17953
the order required under this section. Any excess amount of a 17954
particular credit may be carried forward if authorized under the 17955
section creating that credit. Nothing in this chapter shall be 17956
construed to allow a taxpayer to claim, directly or indirectly, 17957
a credit more than once for a taxable year. 17958

Sec. 5748.08. (A) The board of education of a city, local, 17959
or exempted village school district, at any time by a vote of 17960
two-thirds of all its members, may declare by resolution that it 17961
may be necessary for the school district to do all of the 17962
following: 17963

(1) Raise a specified amount of money for school district 17964
purposes by levying an annual tax on school district income; 17965

(2) Issue general obligation bonds for permanent 17966
improvements, stating in the resolution the necessity and 17967
purpose of the bond issue and the amount, approximate date, 17968
estimated rate of interest, and maximum number of years over 17969
which the principal of the bonds may be paid; 17970

(3) Levy a tax outside the ten-mill limitation to pay debt 17971
charges on the bonds and any anticipatory securities; 17972

(4) Submit the question of the school district income tax 17973
and bond issue to the electors of the district at a special 17974
election. 17975

The resolution shall specify whether the income that is to 17976
be subject to the tax is taxable income of individuals and 17977
estates as defined in divisions (E) (1) (a) and (2) of section 17978
5748.01 of the Revised Code or taxable income of individuals as 17979

defined in division (E) (1) (b) of that section. 17980

On adoption of the resolution, the board shall certify a 17981
copy of it to the tax commissioner and the county auditor no 17982
later than one hundred five days prior to the date of the 17983
special election at which the board intends to propose the 17984
income tax and bond issue. Not later than ten days of receipt of 17985
the resolution, the tax commissioner, in the same manner as 17986
required by division (A) of section 5748.02 of the Revised Code, 17987
shall estimate the rates designated in divisions (A) (1) and (2) 17988
of that section and certify them to the board. Not later than 17989
ten days of receipt of the resolution, the county auditor shall 17990
estimate and certify to the board the average annual property 17991
tax rate required throughout the stated maturity of the bonds to 17992
pay debt charges on the bonds, in the same manner as under 17993
division (C) of section 133.18 of the Revised Code. 17994

(B) On receipt of the tax commissioner's and county 17995
auditor's certifications prepared under division (A) of this 17996
section, the board of education of the city, local, or exempted 17997
village school district, by a vote of two-thirds of all its 17998
members, may adopt a resolution proposing for a specified number 17999
of years or for a continuing period of time the levy of an 18000
annual tax for school district purposes on school district 18001
income and declaring that the amount of taxes that can be raised 18002
within the ten-mill limitation will be insufficient to provide 18003
an adequate amount for the present and future requirements of 18004
the school district; that it is necessary to issue general 18005
obligation bonds of the school district for specified permanent 18006
improvements and to levy an additional tax in excess of the ten- 18007
mill limitation to pay the debt charges on the bonds and any 18008
anticipatory securities; and that the question of the bonds and 18009
taxes shall be submitted to the electors of the school district 18010

at a special election, which shall not be earlier than ninety 18011
days after certification of the resolution to the board of 18012
elections, and the date of which shall be consistent with 18013
section 3501.01 of the Revised Code. The resolution shall 18014
specify all of the following: 18015

(1) The purpose for which the school district income tax 18016
is to be imposed and the rate of the tax, which shall be the 18017
rate set forth in the tax commissioner's certification rounded 18018
to the nearest one-fourth of one per cent; 18019

(2) Whether the income that is to be subject to the tax is 18020
taxable income of individuals and estates as defined in 18021
divisions (E) (1) (a) and (2) of section 5748.01 of the Revised 18022
Code or taxable income of individuals as defined in division (E) 18023
(1) (b) of that section. The specification shall be the same as 18024
the specification in the resolution adopted and certified under 18025
division (A) of this section. 18026

(3) The number of years the tax will be levied, or that it 18027
will be levied for a continuing period of time; 18028

(4) The date on which the tax shall take effect, which 18029
shall be the first day of January of any year following the year 18030
in which the question is submitted; 18031

(5) The county auditor's estimate of the average annual 18032
property tax rate required throughout the stated maturity of the 18033
bonds to pay debt charges on the bonds. 18034

(C) A resolution adopted under division (B) of this 18035
section shall go into immediate effect upon its passage, and no 18036
publication of the resolution shall be necessary other than that 18037
provided for in the notice of election. Immediately after its 18038
adoption and at least ninety days prior to the election at which 18039

the question will appear on the ballot, the board of education 18040
shall certify a copy of the resolution, along with copies of the 18041
auditor's estimate and its resolution under division (A) of this 18042
section, to the board of elections of the proper county. The 18043
board of ~~education~~elections shall make the arrangements for the 18044
submission of the question to the electors of the school 18045
district, and the election shall be conducted, canvassed, and 18046
certified in the same manner as regular elections in the 18047
district for the election of county officers. 18048

The resolution shall be put before the electors as one 18049
ballot question, with a majority vote indicating approval of the 18050
school district income tax, the bond issue, and the levy to pay 18051
debt charges on the bonds and any anticipatory securities. The 18052
board of elections shall publish the notice of the election in a 18053
newspaper of general circulation in the school district once a 18054
week for two consecutive weeks, or as provided in section 7.16 18055
of the Revised Code, prior to the election. If the board of 18056
elections operates and maintains a web site, it also shall post 18057
notice of the election on its web site for thirty days prior to 18058
the election. The notice of election shall state all of the 18059
following: 18060

- (1) The questions to be submitted to the electors; 18061
- (2) The rate of the school district income tax; 18062
- (3) The principal amount of the proposed bond issue; 18063
- (4) The permanent improvements for which the bonds are to 18064
be issued; 18065
- (5) The maximum number of years over which the principal 18066
of the bonds may be paid; 18067
- (6) The estimated additional average annual property tax 18068

rate to pay the debt charges on the bonds, as certified by the county auditor; 18069
18070

(7) The time and place of the special election. 18071

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows: 18072
18073

"Shall the _____ school district be authorized to do both of the following: 18074
18075

(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 the tax would first take effect), for the purpose of _____ (state the purpose of the tax)? 18076
18077
18078
18079
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18081
18082

(2) Issue bonds for the purpose of _____ in the principal amount of \$_____, to be repaid annually over a maximum period of _____ years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period _____ mills for each one dollar of tax valuation, which amounts to _____ (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds? 18083
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18093

	FOR THE INCOME TAX AND BOND ISSUE
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	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."

(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.

(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 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.

(H) The question of repeal of a school district income tax 18123
levied for more than five years may be initiated and submitted 18124
in accordance with section 5748.04 of the Revised Code. 18125

(I) No board of education shall submit a question under 18126
this section to the electors of the school district more than 18127
twice in any calendar year. If a board submits the question 18128
twice in any calendar year, one of the elections on the question 18129
shall be held on the date of the general election. 18130

Sec. 5748.09. (A) The board of education of a city, local, 18131
or exempted village school district, at any time by a vote of 18132
two-thirds of all its members, may declare by resolution that it 18133
may be necessary for the school district to do all of the 18134
following: 18135

(1) Raise a specified amount of money for school district 18136
purposes by levying an annual tax on school district income; 18137

(2) Levy an additional property tax in excess of the ten- 18138
mill limitation for the purpose of providing for the necessary 18139
requirements of the district, stating in the resolution the 18140
amount of money to be raised each year for such purpose; 18141

(3) Submit the question of the school district income tax 18142
and property tax to the electors of the district at a special 18143
election. 18144

The resolution shall specify whether the income that is to 18145
be subject to the tax is taxable income of individuals and 18146
estates as defined in divisions (E) (1) (a) and (2) of section 18147
5748.01 of the Revised Code or taxable income of individuals as 18148
defined in division (E) (1) (b) of that section. 18149

On adoption of the resolution, the board shall certify a 18150
copy of it to the tax commissioner and the county auditor not 18151

later than one hundred days prior to the date of the special 18152
election at which the board intends to propose the income tax 18153
and property tax. Not later than ten days after receipt of the 18154
resolution, the tax commissioner, in the same manner as required 18155
by division (A) of section 5748.02 of the Revised Code, shall 18156
estimate the rates designated in divisions (A)(1) and (2) of 18157
that section and certify them to the board. Not later than ten 18158
days after receipt of the resolution, the county auditor, in the 18159
same manner as required by section 5705.195 of the Revised Code, 18160
shall make the calculation specified in that section and certify 18161
it to the board. 18162

(B) On receipt of the tax commissioner's and county 18163
auditor's certifications prepared under division (A) of this 18164
section, the board of education of the city, local, or exempted 18165
village school district, by a vote of two-thirds of all its 18166
members, may adopt a resolution declaring that the amount of 18167
taxes that can be raised by all tax levies the district is 18168
authorized to impose, when combined with state and federal 18169
revenues, will be insufficient to provide an adequate amount for 18170
the present and future requirements of the school district, and 18171
that it is therefore necessary to levy, for a specified number 18172
of years or for a continuing period of time, an annual tax for 18173
school district purposes on school district income, and to levy, 18174
for a specified number of years not exceeding ten or for a 18175
continuing period of time, an additional property tax in excess 18176
of the ten-mill limitation for the purpose of providing for the 18177
necessary requirements of the district, and declaring that the 18178
question of the school district income tax and property tax 18179
shall be submitted to the electors of the school district at a 18180
special election, which shall not be earlier than ninety days 18181
after certification of the resolution to the board of elections, 18182

and the date of which shall be consistent with section 3501.01 18183
of the Revised Code. The resolution shall specify all of the 18184
following: 18185

(1) The purpose for which the school district income tax 18186
is to be imposed and the rate of the tax, which shall be the 18187
rate set forth in the tax commissioner's certification rounded 18188
to the nearest one-fourth of one per cent; 18189

(2) Whether the income that is to be subject to the tax is 18190
taxable income of individuals and estates as defined in 18191
divisions (E) (1) (a) and (2) of section 5748.01 of the Revised 18192
Code or taxable income of individuals as defined in division (E) 18193
(1) (b) of that section. The specification shall be the same as 18194
the specification in the resolution adopted and certified under 18195
division (A) of this section. 18196

(3) The number of years the school district income tax 18197
will be levied, or that it will be levied for a continuing 18198
period of time; 18199

(4) The date on which the school district income tax shall 18200
take effect, which shall be the first day of January of any year 18201
following the year in which the question is submitted; 18202

(5) The amount of money it is necessary to raise for the 18203
purpose of providing for the necessary requirements of the 18204
district for each year the property tax is to be imposed; 18205

(6) The number of years the property tax will be levied, 18206
or that it will be levied for a continuing period of time; 18207

(7) The tax list upon which the property tax shall be 18208
first levied, which may be the current year's tax list; 18209

(8) The amount of the average tax levy, expressed in 18210

dollars and cents for each one hundred dollars of valuation as 18211
well as in mills for each one dollar of valuation, estimated by 18212
the county auditor under division (A) of this section. 18213

(C) A resolution adopted under division (B) of this 18214
section shall go into immediate effect upon its passage, and no 18215
publication of the resolution shall be necessary other than that 18216
provided for in the notice of election. Immediately after its 18217
adoption and at least ninety days prior to the election at which 18218
the question will appear on the ballot, the board of education 18219
shall certify a copy of the resolution, along with copies of the 18220
county auditor's certification and the resolution under division 18221
(A) of this section, to the board of elections of the proper 18222
county. The board of education shall make the arrangements for 18223
the submission of the question to the electors of the school 18224
district, and the election shall be conducted, canvassed, and 18225
certified in the same manner as regular elections in the 18226
district for the election of county officers. 18227

The resolution shall be put before the electors as one 18228
ballot question, with a majority vote indicating approval of the 18229
school district income tax and the property tax. The board of 18230
elections shall publish the notice of the election in a 18231
newspaper of general circulation in the school district once a 18232
week for two consecutive weeks, or as provided in section 7.16 18233
of the Revised Code, prior to the election. If the board of 18234
elections operates and maintains a web site, also shall post 18235
notice of the election on its web site for thirty days prior to 18236
the election. The notice of election shall state all of the 18237
following: 18238

(1) The questions to be submitted to the electors as a 18239
single ballot question; 18240

(2) The rate of the school district income tax;	18241
(3) The number of years the school district income tax	18242
will be levied or that it will be levied for a continuing period	18243
of time;	18244
(4) The annual proceeds of the proposed property tax levy	18245
for the purpose of providing for the necessary requirements of	18246
the district;	18247
(5) The number of years during which the property tax levy	18248
shall be levied, or that it shall be levied for a continuing	18249
period of time;	18250
(6) The estimated average additional tax rate of the	18251
property tax, expressed in dollars and cents for each one	18252
hundred dollars of valuation as well as in mills for each one	18253
dollar of valuation, outside the limitation imposed by Section 2	18254
of Article XII, Ohio Constitution, as certified by the county	18255
auditor;	18256
(7) The time and place of the special election.	18257
(D) The form of the ballot on a question submitted to the	18258
electors under this section shall be as follows:	18259
"Shall the _____ school district be authorized to do both	18260
of the following:	18261
(1) Impose an annual income tax of _____ (state the	18262
proposed rate of tax) on the school district income of	18263
individuals and of estates, for _____ (state the number of	18264
years the tax would be levied, or that it would be levied for a	18265
continuing period of time), beginning _____ (state the date	18266
the tax would first take effect), for the purpose of _____	18267
(state the purpose of the tax)?	18268

(2) Impose a property tax levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of _____ (here insert annual amount the levy is to produce), estimated by the county auditor to average _____ (here insert number of mills) mills for each one dollar of valuation, which amounts to _____ (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation, for _____ (state the number of years the tax is to be imposed or that it will be imposed for a continuing period of time), commencing in _____ (first year the tax is to be levied), first due in calendar year _____ (first calendar year in which the tax shall be due)?

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	FOR THE INCOME TAX AND PROPERTY TAX
	AGAINST THE INCOME TAX AND PROPERTY TAX

"

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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(E) 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

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favor of it: 18294

(1) The income tax and the applicable provisions of 18295
Chapter 5747. of the Revised Code shall take effect on the date 18296
specified in the resolution. 18297

(2) The board of education of the school district may make 18298
the additional property tax levy necessary to raise the amount 18299
specified on the ballot for the purpose of providing for the 18300
necessary requirements of the district. The property tax levy 18301
shall be included in the next tax budget that is certified to 18302
the county budget commission. 18303

(F) (1) After approval of a question under this section, 18304
the board of education may anticipate a fraction of the proceeds 18305
of the school district income tax in accordance with section 18306
5748.05 of the Revised Code. Any anticipation notes under this 18307
division shall be issued as provided in section 133.24 of the 18308
Revised Code, shall have principal payments during each year 18309
after the year of their issuance over a period not to exceed 18310
five years, and may have a principal payment in the year of 18311
their issuance. 18312

(2) After the approval of a question under this section 18313
and prior to the time when the first tax collection from the 18314
property tax levy can be made, the board of education may 18315
anticipate a fraction of the proceeds of the levy and issue 18316
anticipation notes in an amount not exceeding the total 18317
estimated proceeds of the levy to be collected during the first 18318
year of the levy. Any anticipation notes under this division 18319
shall be issued as provided in section 133.24 of the Revised 18320
Code, shall have principal payments during each year after the 18321
year of their issuance over a period not to exceed five years, 18322
and may have a principal payment in the year of their issuance. 18323

(G) (1) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

(2) A property tax levy for a continuing period of time may be reduced in the manner provided under section 5705.261 of the Revised Code.

(H) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(I) If the electors of the school district approve a question under this section, and if the last calendar year the school district income tax is in effect and the last calendar year of collection of the property tax are the same, the board of education of the school district may propose to submit under this section the combined question of a school district income tax to take effect upon the expiration of the existing income tax and a property tax to be first collected in the calendar year after the calendar year of last collection of the existing property tax, and specify in the resolutions adopted under this section that the proposed taxes would renew the existing taxes. The form of the ballot on a question submitted to the electors under division (I) of this section shall be as follows:

"Shall the _____ school district be authorized to do both of the following:

(1) Impose an annual income tax of _____ (state the proposed rate of tax) on the school district income of

individuals and of estates to renew an income tax expiring at 18353
the end of _____ (state the last year the existing income tax 18354
may be levied) for _____ (state the number of years the tax 18355
would be levied, or that it would be levied for a continuing 18356
period of time), beginning _____ (state the date the tax would 18357
first take effect), for the purpose of _____ (state the 18358
purpose of the tax)? 18359

(2) Impose a property tax levy renewing an existing levy 18360
outside of the ten-mill limitation for the purpose of providing 18361
for the necessary requirements of the district in the sum of 18362
_____ (here insert annual amount the levy is to 18363
produce), estimated by the county auditor to average 18364
_____ (here insert number of mills) mills for each 18365
one dollar of valuation, which amounts to _____ 18366
(here insert rate expressed in dollars and cents) for each one 18367
hundred dollars of valuation, for _____ (state the 18368
number of years the tax is to be imposed or that it will be 18369
imposed for a continuing period of time), commencing in 18370
_____ (first year the tax is to be levied), first due in 18371
calendar year _____ (first calendar year in which the tax 18372
shall be due)? 18373

18374

	FOR THE INCOME TAX AND PROPERTY TAX
	AGAINST THE INCOME TAX AND PROPERTY TAX

"

If the question submitted to electors proposes a school 18375
district income tax only on the taxable income of individuals as 18376
defined in division (E) (1) (b) of section 5748.01 of the Revised 18377

Code, the form of the ballot shall be modified by stating that 18378
the tax is to be levied on the "earned income of individuals 18379
residing in the school district" in lieu of the "school district 18380
income of individuals and of estates." 18381

The question of a renewal levy under this division shall 18382
not be placed on the ballot unless the question is submitted on 18383
a date on which a special election may be held under section 18384
3501.01 of the Revised Code, except for the first Tuesday after 18385
the first Monday in ~~February and~~ August, during the last year 18386
the property tax levy to be renewed may be extended on the real 18387
and public utility property tax list and duplicate, or at any 18388
election held in the ensuing year. 18389

(J) If the electors of the school district approve a 18390
question under this section, the board of education of the 18391
school district may propose to renew either or both of the 18392
existing taxes as individual ballot questions in accordance with 18393
section 5748.02 of the Revised Code for the school district 18394
income tax, or section 5705.194 of the Revised Code for the 18395
property tax. 18396

Sec. 5751.01. As used in this chapter: 18397

(A) "Person" means, but is not limited to, individuals, 18398
combinations of individuals of any form, receivers, assignees, 18399
trustees in bankruptcy, firms, companies, joint-stock companies, 18400
business trusts, estates, partnerships, limited liability 18401
partnerships, limited liability companies, associations, joint 18402
ventures, clubs, societies, for-profit corporations, S 18403
corporations, qualified subchapter S subsidiaries, qualified 18404
subchapter S trusts, trusts, entities that are disregarded for 18405
federal income tax purposes, and any other entities. 18406

(B) "Consolidated elected taxpayer" means a group of two 18407
or more persons treated as a single taxpayer for purposes of 18408
this chapter as the result of an election made under section 18409
5751.011 of the Revised Code. 18410

(C) "Combined taxpayer" means a group of two or more 18411
persons treated as a single taxpayer for purposes of this 18412
chapter under section 5751.012 of the Revised Code. 18413

(D) "Taxpayer" means any person, or any group of persons 18414
in the case of a consolidated elected taxpayer or combined 18415
taxpayer treated as one taxpayer, required to register or pay 18416
tax under this chapter. "Taxpayer" does not include excluded 18417
persons. 18418

(E) "Excluded person" means any of the following: 18419

(1) Any person with not more than one hundred fifty 18420
thousand dollars of taxable gross receipts during the calendar 18421
year. Division (E)(1) of this section does not apply to a person 18422
that is a member of a consolidated elected taxpayer; 18423

(2) A public utility that paid the excise tax imposed by 18424
section 5727.24 or 5727.30 of the Revised Code based on one or 18425
more measurement periods that include the entire tax period 18426
under this chapter, except that a public utility that is a 18427
combined company is a taxpayer with regard to the following 18428
gross receipts: 18429

(a) Taxable gross receipts directly attributed to a public 18430
utility activity, but not directly attributed to an activity 18431
that is subject to the excise tax imposed by section 5727.24 or 18432
5727.30 of the Revised Code; 18433

(b) Taxable gross receipts that cannot be directly 18434
attributed to any activity, multiplied by a fraction whose 18435

numerator is the taxable gross receipts described in division 18436
(E) (2) (a) of this section and whose denominator is the total 18437
taxable gross receipts that can be directly attributed to any 18438
activity; 18439

(c) Except for any differences resulting from the use of 18440
an accrual basis method of accounting for purposes of 18441
determining gross receipts under this chapter and the use of the 18442
cash basis method of accounting for purposes of determining 18443
gross receipts under section 5727.24 of the Revised Code, the 18444
gross receipts directly attributed to the activity of a natural 18445
gas company shall be determined in a manner consistent with 18446
division (D) of section 5727.03 of the Revised Code. 18447

As used in division (E) (2) of this section, "combined 18448
company" and "public utility" have the same meanings as in 18449
section 5727.01 of the Revised Code. 18450

(3) A financial institution, as defined in section 5726.01 18451
of the Revised Code, that paid the tax imposed by section 18452
5726.02 of the Revised Code based on one or more taxable years 18453
that include the entire tax period under this chapter; 18454

(4) A person directly or indirectly owned by one or more 18455
financial institutions, as defined in section 5726.01 of the 18456
Revised Code, that paid the tax imposed by section 5726.02 of 18457
the Revised Code based on one or more taxable years that include 18458
the entire tax period under this chapter. 18459

For the purposes of division (E) (4) of this section, a 18460
person owns another person under the following circumstances: 18461

(a) In the case of corporations issuing capital stock, one 18462
corporation owns another corporation if it owns fifty per cent 18463
or more of the other corporation's capital stock with current 18464

voting rights; 18465

(b) In the case of a limited liability company, one person 18466
owns the company if that person's membership interest, as 18467
defined in section 1705.01 of the Revised Code, is fifty per 18468
cent or more of the combined membership interests of all persons 18469
owning such interests in the company; 18470

(c) In the case of a partnership, trust, or other 18471
unincorporated business organization other than a limited 18472
liability company, one person owns the organization if, under 18473
the articles of organization or other instrument governing the 18474
affairs of the organization, that person has a beneficial 18475
interest in the organization's profits, surpluses, losses, or 18476
distributions of fifty per cent or more of the combined 18477
beneficial interests of all persons having such an interest in 18478
the organization. 18479

(5) A domestic insurance company or foreign insurance 18480
company, as defined in section 5725.01 of the Revised Code, that 18481
paid the insurance company premiums tax imposed by section 18482
5725.18 or Chapter 5729. of the Revised Code, or an unauthorized 18483
insurance company whose gross premiums are subject to tax under 18484
section 3905.36 of the Revised Code based on one or more 18485
measurement periods that include the entire tax period under 18486
this chapter; 18487

(6) A person that solely facilitates or services one or 18488
more securitizations of phase-in-recovery property pursuant to a 18489
final financing order as those terms are defined in section 18490
4928.23 of the Revised Code. For purposes of this division, 18491
"securitization" means transferring one or more assets to one or 18492
more persons and then issuing securities backed by the right to 18493
receive payment from the asset or assets so transferred. 18494

(7) Except as otherwise provided in this division, a pre- 18495
income tax trust as defined in ~~division (FF) (4)~~ of section 18496
5747.01 of the Revised Code and any pass-through entity of which 18497
such pre-income tax trust owns or controls, directly, 18498
indirectly, or constructively through related interests, more 18499
than five per cent of the ownership or equity interests. If the 18500
pre-income tax trust has made a qualifying pre-income tax trust 18501
election under division ~~(FF) (3)~~ (EE) of section 5747.01 of the 18502
Revised Code, then the trust and the pass-through entities of 18503
which it owns or controls, directly, indirectly, or 18504
constructively through related interests, more than five per 18505
cent of the ownership or equity interests, shall not be excluded 18506
persons for purposes of the tax imposed under section 5751.02 of 18507
the Revised Code. 18508

(8) Nonprofit organizations or the state and its agencies, 18509
instrumentalities, or political subdivisions. 18510

(F) Except as otherwise provided in divisions (F) (2), (3), 18511
and (4) of this section, "gross receipts" means the total amount 18512
realized by a person, without deduction for the cost of goods 18513
sold or other expenses incurred, that contributes to the 18514
production of gross income of the person, including the fair 18515
market value of any property and any services received, and any 18516
debt transferred or forgiven as consideration. 18517

(1) The following are examples of gross receipts: 18518

(a) Amounts realized from the sale, exchange, or other 18519
disposition of the taxpayer's property to or with another; 18520

(b) Amounts realized from the taxpayer's performance of 18521
services for another; 18522

(c) Amounts realized from another's use or possession of 18523

the taxpayer's property or capital; 18524

(d) Any combination of the foregoing amounts. 18525

(2) "Gross receipts" excludes the following amounts: 18526

(a) Interest income except interest on credit sales; 18527

(b) Dividends and distributions from corporations, and 18528
distributive or proportionate shares of receipts and income from 18529
a pass-through entity as defined under section 5733.04 of the 18530
Revised Code; 18531

(c) Receipts from the sale, exchange, or other disposition 18532
of an asset described in section 1221 or 1231 of the Internal 18533
Revenue Code, without regard to the length of time the person 18534
held the asset. Notwithstanding section 1221 of the Internal 18535
Revenue Code, receipts from hedging transactions also are 18536
excluded to the extent the transactions are entered into 18537
primarily to protect a financial position, such as managing the 18538
risk of exposure to (i) foreign currency fluctuations that 18539
affect assets, liabilities, profits, losses, equity, or 18540
investments in foreign operations; (ii) interest rate 18541
fluctuations; or (iii) commodity price fluctuations. As used in 18542
division (F)(2)(c) of this section, "hedging transaction" has 18543
the same meaning as used in section 1221 of the Internal Revenue 18544
Code and also includes transactions accorded hedge accounting 18545
treatment under statement of financial accounting standards 18546
number 133 of the financial accounting standards board. For the 18547
purposes of division (F)(2)(c) of this section, the actual 18548
transfer of title of real or tangible personal property to 18549
another entity is not a hedging transaction. 18550

(d) Proceeds received attributable to the repayment, 18551
maturity, or redemption of the principal of a loan, bond, mutual 18552

fund, certificate of deposit, or marketable instrument;	18553
(e) The principal amount received under a repurchase	18554
agreement or on account of any transaction properly	18555
characterized as a loan to the person;	18556
(f) Contributions received by a trust, plan, or other	18557
arrangement, any of which is described in section 501(a) of the	18558
Internal Revenue Code, or to which Title 26, Subtitle A, Chapter	18559
1, Subchapter (D) of the Internal Revenue Code applies;	18560
(g) Compensation, whether current or deferred, and whether	18561
in cash or in kind, received or to be received by an employee,	18562
former employee, or the employee's legal successor for services	18563
rendered to or for an employer, including reimbursements	18564
received by or for an individual for medical or education	18565
expenses, health insurance premiums, or employee expenses, or on	18566
account of a dependent care spending account, legal services	18567
plan, any cafeteria plan described in section 125 of the	18568
Internal Revenue Code, or any similar employee reimbursement;	18569
(h) Proceeds received from the issuance of the taxpayer's	18570
own stock, options, warrants, puts, or calls, or from the sale	18571
of the taxpayer's treasury stock;	18572
(i) Proceeds received on the account of payments from	18573
insurance policies, except those proceeds received for the loss	18574
of business revenue;	18575
(j) Gifts or charitable contributions received; membership	18576
dues received by trade, professional, homeowners', or	18577
condominium associations; and payments received for educational	18578
courses, meetings, meals, or similar payments to a trade,	18579
professional, or other similar association; and fundraising	18580
receipts received by any person when any excess receipts are	18581

donated or used exclusively for charitable purposes;	18582
(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;	18583 18584 18585
(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;	18586 18587 18588
(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;	18589 18590 18591 18592 18593 18594 18595 18596 18597 18598
(n) Pension reversions;	18599
(o) Contributions to capital;	18600
(p) Sales or use taxes collected as a vendor or an out-of-state seller on behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;	18601 18602 18603 18604 18605
(q) In the case of receipts from the sale of cigarettes, tobacco products, or vapor products by a wholesale dealer, retail dealer, distributor, manufacturer, vapor distributor, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by	18606 18607 18608 18609 18610

any person on or for such cigarettes, tobacco products, or vapor 18611
products under subtitle E of the Internal Revenue Code or 18612
Chapter 5743. of the Revised Code; 18613

(r) In the case of receipts from the sale, transfer, 18614
exchange, or other disposition of motor fuel as "motor fuel" is 18615
defined in section 5736.01 of the Revised Code, an amount equal 18616
to the value of the motor fuel, including federal and state 18617
motor fuel excise taxes and receipts from billing or invoicing 18618
the tax imposed under section 5736.02 of the Revised Code to 18619
another person; 18620

(s) In the case of receipts from the sale of beer or 18621
intoxicating liquor, as defined in section 4301.01 of the 18622
Revised Code, by a person holding a permit issued under Chapter 18623
4301. or 4303. of the Revised Code, an amount equal to federal 18624
and state excise taxes paid by any person on or for such beer or 18625
intoxicating liquor under subtitle E of the Internal Revenue 18626
Code or Chapter 4301. or 4305. of the Revised Code; 18627

(t) Receipts realized by a new motor vehicle dealer or 18628
used motor vehicle dealer, as defined in section 4517.01 of the 18629
Revised Code, from the sale or other transfer of a motor 18630
vehicle, as defined in that section, to another motor vehicle 18631
dealer for the purpose of resale by the transferee motor vehicle 18632
dealer, but only if the sale or other transfer was based upon 18633
the transferee's need to meet a specific customer's preference 18634
for a motor vehicle; 18635

(u) Receipts from a financial institution described in 18636
division (E)(3) of this section for services provided to the 18637
financial institution in connection with the issuance, 18638
processing, servicing, and management of loans or credit 18639
accounts, if such financial institution and the recipient of 18640

such receipts have at least fifty per cent of their ownership 18641
interests owned or controlled, directly or constructively 18642
through related interests, by common owners; 18643

(v) Receipts realized from administering anti-neoplastic 18644
drugs and other cancer chemotherapy, biologicals, therapeutic 18645
agents, and supportive drugs in a physician's office to patients 18646
with cancer; 18647

(w) Funds received or used by a mortgage broker that is 18648
not a dealer in intangibles, other than fees or other 18649
consideration, pursuant to a table-funding mortgage loan or 18650
warehouse-lending mortgage loan. Terms used in division (F) (2) 18651
(w) of this section have the same meanings as in section 1322.01 18652
of the Revised Code, except "mortgage broker" means a person 18653
assisting a buyer in obtaining a mortgage loan for a fee or 18654
other consideration paid by the buyer or a lender, or a person 18655
engaged in table-funding or warehouse-lending mortgage loans 18656
that are first lien mortgage loans. 18657

(x) Property, money, and other amounts received by a 18658
professional employer organization, as defined in section 18659
4125.01 of the Revised Code, from a client employer, as defined 18660
in that section, in excess of the administrative fee charged by 18661
the professional employer organization to the client employer; 18662

(y) In the case of amounts retained as commissions by a 18663
permit holder under Chapter 3769. of the Revised Code, an amount 18664
equal to the amounts specified under that chapter that must be 18665
paid to or collected by the tax commissioner as a tax and the 18666
amounts specified under that chapter to be used as purse money; 18667

(z) Qualifying distribution center receipts as determined 18668
under section 5751.40 of the Revised Code. 18669

~~(i) For purposes of division (F) (2) (z) of this section:~~ 18670

~~(I) "Qualifying distribution center receipts" means~~ 18671
~~receipts of a supplier from qualified property that is delivered~~ 18672
~~to a qualified distribution center, multiplied by a quantity~~ 18673
~~that equals one minus the Ohio delivery percentage. If the~~ 18674
~~qualified distribution center is a refining facility, "supplier"~~ 18675
~~includes all dealers, brokers, processors, sellers, vendors,~~ 18676
~~cosigners, and distributors of qualified property.~~ 18677

~~(II) "Qualified property" means tangible personal property~~ 18678
~~delivered to a qualified distribution center that is shipped to~~ 18679
~~that qualified distribution center solely for further shipping~~ 18680
~~by the qualified distribution center to another location in this~~ 18681
~~state or elsewhere or, in the case of gold, silver, platinum, or~~ 18682
~~palladium delivered to a refining facility solely for refining~~ 18683
~~to a grade and fineness acceptable for delivery to a registered~~ 18684
~~commodities exchange. "Further shipping" includes storing and~~ 18685
~~repackaging property into smaller or larger bundles, so long as~~ 18686
~~the property is not subject to further manufacturing or~~ 18687
~~processing. "Refining" is limited to extracting impurities from~~ 18688
~~gold, silver, platinum, or palladium through smelting or some~~ 18689
~~other process at a refining facility.~~ 18690

~~(III) "Qualified distribution center" means a warehouse, a~~ 18691
~~facility similar to a warehouse, or a refining facility in this~~ 18692
~~state that, for the qualifying year, is operated by a person~~ 18693
~~that is not part of a combined taxpayer group and that has a~~ 18694
~~qualifying certificate. All warehouses or facilities similar to~~ 18695
~~warehouses that are operated by persons in the same taxpayer~~ 18696
~~group and that are located within one mile of each other shall~~ 18697
~~be treated as one qualified distribution center. All refining~~ 18698
~~facilities that are operated by persons in the same taxpayer~~ 18699

~~group and that are located in the same or adjacent counties may be treated as one qualified distribution center.~~ 18700
18701

~~(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.~~ 18702
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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.~~ 18704
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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.~~ 18708
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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~~ 18715
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~~for a qualified distribution center by the operator of a~~ 18730
~~distribution center has been made in accordance with generally~~ 18731
~~accepted accounting principles. The commissioner shall issue or~~ 18732
~~deny the issuance of a certificate within sixty days after the~~ 18733
~~receipt of the application. A denial is subject to appeal under~~ 18734
~~section 5717.02 of the Revised Code. If the operator files a~~ 18735
~~timely appeal under section 5717.02 of the Revised Code, the~~ 18736
~~operator shall be granted a qualifying certificate effective for~~ 18737
~~the remainder of the qualifying year or until the appeal is~~ 18738
~~finalized, whichever is earlier. If the operator does not~~ 18739
~~prevail in the appeal, the operator shall pay the ineligible~~ 18740
~~operator's supplier tax liability.~~ 18741

~~(VII) "Ohio delivery percentage" means the proportion of~~ 18742
~~the total property delivered to a destination inside Ohio from~~ 18743
~~the qualified distribution center during the qualifying period~~ 18744
~~compared with total deliveries from such distribution center~~ 18745
~~everywhere during the qualifying period.~~ 18746

~~(VIII) "Refining facility" means one or more buildings~~ 18747
~~located in a county in the Appalachian region of this state as~~ 18748
~~defined by section 107.21 of the Revised Code and utilized for~~ 18749
~~refining or smelting gold, silver, platinum, or palladium to a~~ 18750
~~grade and fineness acceptable for delivery to a registered~~ 18751
~~commodities exchange.~~ 18752

~~(IX) "Registered commodities exchange" means a board of~~ 18753
~~trade, such as New York mercantile exchange, inc. or commodity~~ 18754
~~exchange, inc., designated as a contract market by the commodity~~ 18755
~~futures trading commission under the "Commodity Exchange Act," 7~~ 18756
~~U.S.C. 1 et seq., as amended.~~ 18757

~~(X) "Ineligible operator's supplier tax liability" means~~ 18758
~~an amount equal to the tax liability of all suppliers of a~~ 18759

~~distribution center had the distribution center not been issued a qualifying certificate for the qualifying year. Ineligible 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.~~ 18760
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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.)~~ 18770
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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~~ 18787
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~~business operations of the distribution center have changed or 18791~~
~~will change such that the distribution center will qualify as a 18792~~
~~qualified distribution center within thirty six months after the 18793~~
~~date the operator first applies for a certificate. If, at the 18794~~
~~end of that thirty six month period, the business operations of 18795~~
~~the distribution center have not changed such that the 18796~~
~~distribution center qualifies as a qualified distribution 18797~~
~~center, the operator of the distribution center shall pay the 18798~~
~~ineligible operator's supplier tax liability for each year that 18799~~
~~the distribution center received a certificate but did not 18800~~
~~qualify as a qualified distribution center. For each year the 18801~~
~~distribution center receives a certificate under division (F) (2) 18802~~
~~(z) (ii) (II) of this section, the distribution center shall pay 18803~~
~~all applicable fees required under division (F) (2) (z) of this 18804~~
~~section and shall submit an updated business plan showing the 18805~~
~~progress the distribution center made toward qualifying as a 18806~~
~~qualified distribution center during the preceding year. 18807~~

~~(III) An operator may appeal a determination under 18808~~
~~division (F) (2) (z) (ii) (I) or (II) of this section that the 18809~~
~~ineligible operator is liable for the operator's supplier tax 18810~~
~~liability as a result of not qualifying as a qualified 18811~~
~~distribution center, as provided in section 5717.02 of the 18812~~
~~Revised Code. 18813~~

~~(iii) When filing an application for a qualifying 18814~~
~~certificate under division (F) (2) (z) (i) (VI) of this section, the 18815~~
~~operator of a qualified distribution center also shall provide 18816~~
~~documentation, as the commissioner requires, for the 18817~~
~~commissioner to ascertain the Ohio delivery percentage. The 18818~~
~~commissioner, upon issuing the qualifying certificate, also 18819~~
~~shall certify the Ohio delivery percentage. The operator of the 18820~~
~~qualified distribution center may appeal the commissioner's 18821~~

~~certification of the Ohio delivery percentage in the same manner— 18822
as an appeal is taken from the denial of a qualifying— 18823
certificate under division (F) (2) (z) (i) (VI) of this section. 18824~~

~~(iv) (I) In the case where the distribution center is new— 18825
and not open for the entire qualifying period, the operator— 18826
shall make a good faith estimate of an Ohio delivery percentage— 18827
for use by suppliers in their reports of taxable gross receipts— 18828
for the remainder of the qualifying period. The operator of the— 18829
facility shall disclose to the suppliers that such Ohio delivery— 18830
percentage is an estimate and is subject to recalculation. By— 18831
the due date of the next application for a qualifying— 18832
certificate, the operator shall determine the actual Ohio— 18833
delivery percentage for the estimated qualifying period and— 18834
proceed as provided in division (F) (2) (z) (iii) of this section— 18835
with respect to the calculation and recalculation of the Ohio— 18836
delivery percentage. The supplier is required to file, within— 18837
sixty days after receiving notice from the operator of the— 18838
qualified distribution center, amended reports for the impacted— 18839
calendar quarter or quarters or calendar year, whichever the— 18840
case may be. Any additional tax liability or tax overpayment— 18841
shall be subject to interest but shall not be subject to the— 18842
imposition of any penalty so long as the amended returns are— 18843
timely filed. 18844~~

~~(II) The operator of a distribution center that receives a— 18845
qualifying certificate under division (F) (2) (z) (ii) (II) of this— 18846
section shall make a good faith estimate of the Ohio delivery— 18847
percentage that the operator estimates will apply to the— 18848
distribution center at the end of the thirty six month period— 18849
after the operator first applied for a qualifying certificate— 18850
under that division. The result of the estimate shall be— 18851
multiplied by a factor of one and seventy five one hundredths.— 18852~~

~~The product of that calculation shall be the Ohio delivery percentage used by suppliers in their reports of taxable gross 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.~~ 18853
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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.~~ 18861
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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.~~ 18871
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~~(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on~~ 18881
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~~appeal when the commissioner disagrees that the applicant has~~ 18883
~~met the minimum thresholds for a qualified distribution center~~ 18884
~~as set forth in division (F) (2) (z) of this section.~~ 18885

(aa) Receipts of an employer from payroll deductions 18886
relating to the reimbursement of the employer for advancing 18887
moneys to an unrelated third party on an employee's behalf; 18888

(bb) Cash discounts allowed and taken; 18889

(cc) Returns and allowances; 18890

(dd) Bad debts from receipts on the basis of which the tax 18891
imposed by this chapter was paid in a prior quarterly tax 18892
payment period. For the purpose of this division, "bad debts" 18893
means any debts that have become worthless or uncollectible 18894
between the preceding and current quarterly tax payment periods, 18895
have been uncollected for at least six months, and that may be 18896
claimed as a deduction under section 166 of the Internal Revenue 18897
Code and the regulations adopted under that section, or that 18898
could be claimed as such if the taxpayer kept its accounts on 18899
the accrual basis. "Bad debts" does not include repossessed 18900
property, uncollectible amounts on property that remains in the 18901
possession of the taxpayer until the full purchase price is 18902
paid, or expenses in attempting to collect any account 18903
receivable or for any portion of the debt recovered; 18904

(ee) Any amount realized from the sale of an account 18905
receivable to the extent the receipts from the underlying 18906
transaction giving rise to the account receivable were included 18907
in the gross receipts of the taxpayer; 18908

(ff) Any receipts directly attributed to a transfer 18909
agreement or to the enterprise transferred under that agreement 18910
under section 4313.02 of the Revised Code. 18911

~~(gg) (i) As used in this division:~~ 18912

~~(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.~~ 18913
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~~(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.~~ 18921
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~~(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~~ 18926
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~~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 property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section Qualified uranium receipts as determined under section 5751.41 of the Revised Code.~~

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

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

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

~~As used in division (F)(2)(jj) of this section:~~

~~(i) "Qualifying integrated supply chain receipts" means receipts of a qualified integrated supply chain vendor from the sale of qualified property delivered to, or integrated supply chain services provided to, another qualified integrated supply chain vendor or to a retailer that is a member of the integrated~~

~~supply chain. "Qualifying integrated supply chain receipts" does not include receipts of a person that is not a qualified 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.~~ 18971
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~~(ii) "Qualified property" means any of the following:~~ 18978

~~(I) Component parts used to hold, contain, package, or dispense qualified products, excluding equipment;~~ 18979
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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;~~ 18981
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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.~~ 18985
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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.~~ 18987
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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,~~ 18995
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~~as those terms are defined in section 5739.01 of the Revised Code.~~ 19000
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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.~~ 19002
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~~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.~~ 19011
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~~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~~ 19022
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~~of the change.~~ 19030

~~Each recipient of a certificate issued pursuant to this~~ 19031
~~division shall maintain a copy of the certificate for four years~~ 19032
~~from the date the certificate was received.~~ 19033

~~(vi) "Integrated supply chain services" means procuring~~ 19034
~~raw materials or manufacturing, processing, refining,~~ 19035
~~assembling, packaging, or repackaging tangible personal property~~ 19036
~~that will become finished goods inventory capable of being sold~~ 19037
~~at retail by a retailer that is a member of an integrated supply~~ 19038
~~chain.~~ 19039

~~(vii) "Retailer" means a person primarily engaged in~~ 19040
~~making retail sales and any member of that person's consolidated~~ 19041
~~elected taxpayer group or combined taxpayer group, whether or~~ 19042
~~not that member is primarily engaged in making retail sales.~~ 19043

~~(viii) "Qualified integrated supply chain district" means~~ 19044
~~the parcel or parcels of land from which a retailer's integrated~~ 19045
~~supply chain that existed on September 29, 2015, provides or~~ 19046
~~receives integrated supply chain services, and to which all of~~ 19047
~~the following apply:~~ 19048

~~(I) The parcel or parcels are located wholly in a county~~ 19049
~~having a population of greater than one hundred sixty five~~ 19050
~~thousand but less than one hundred seventy thousand based on the~~ 19051
~~2010 federal decennial census.~~ 19052

~~(II) The parcel or parcels are located wholly in the~~ 19053
~~corporate limits of a municipal corporation with a population~~ 19054
~~greater than seven thousand five hundred and less than eight~~ 19055
~~thousand based on the 2010 federal decennial census that is~~ 19056
~~partly located in the county described in division (F)(2)(jj)~~ 19057
~~(viii)(I) of this section, as those corporate limits existed on~~ 19058

September 29, 2015.	19059
(III) The aggregate acreage of the parcel or parcels equals or exceeds one hundred acres.	19060
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(kk) In the case of a railroad company described in	19062
division (D) (9) of section 5727.01 of the Revised Code that	19063
purchases dyed diesel fuel directly from a supplier as defined	19064
by section 5736.01 of the Revised Code, an amount equal to the	19065
product of the number of gallons of dyed diesel fuel purchased	19066
directly from such a supplier multiplied by the average	19067
wholesale price for a gallon of diesel fuel as determined under	19068
section 5736.02 of the Revised Code for the period during which	19069
the fuel was purchased multiplied by a fraction, the numerator	19070
of which equals the rate of tax levied by section 5736.02 of the	19071
Revised Code less the rate of tax computed in section 5751.03 of	19072
the Revised Code, and the denominator of which equals the rate	19073
of tax computed in section 5751.03 of the Revised Code.	19074
(ll) Receipts realized by an out-of-state disaster	19075
business from disaster work conducted in this state during a	19076
disaster response period pursuant to a qualifying solicitation	19077
received by the business. Terms used in division (F) (2) (ll) of	19078
this section have the same meanings as in section 5703.94 of the	19079
Revised Code.	19080
(mm) Any receipts for which the tax imposed by this	19081
chapter is prohibited by the constitution or laws of the United	19082
States or the constitution of this state.	19083
(3) In the case of a taxpayer when acting as a real estate	19084
broker, "gross receipts" includes only the portion of any fee	19085
for the service of a real estate broker, or service of a real	19086
estate salesperson associated with that broker, that is retained	19087

by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(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.

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

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

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

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

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

(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.

(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:

(1) Has at any time during the calendar year property in

this state with an aggregate value of at least fifty thousand 19116
dollars. For the purpose of division (I) (1) of this section, 19117
owned property is valued at original cost and rented property is 19118
valued at eight times the net annual rental charge. 19119

(2) Has during the calendar year payroll in this state of 19120
at least fifty thousand dollars. Payroll in this state includes 19121
all of the following: 19122

(a) Any amount subject to withholding by the person under 19123
section 5747.06 of the Revised Code; 19124

(b) Any other amount the person pays as compensation to an 19125
individual under the supervision or control of the person for 19126
work done in this state; and 19127

(c) Any amount the person pays for services performed in 19128
this state on its behalf by another. 19129

(3) Has during the calendar year taxable gross receipts of 19130
at least five hundred thousand dollars. 19131

(4) Has at any time during the calendar year within this 19132
state at least twenty-five per cent of the person's total 19133
property, total payroll, or total gross receipts. 19134

(5) Is domiciled in this state as an individual or for 19135
corporate, commercial, or other business purposes. 19136

(J) "Tangible personal property" has the same meaning as 19137
in section 5739.01 of the Revised Code. 19138

(K) "Internal Revenue Code" means the Internal Revenue 19139
Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term 19140
used in this chapter that is not otherwise defined has the same 19141
meaning as when used in a comparable context in the laws of the 19142
United States relating to federal income taxes unless a 19143

different meaning is clearly required. Any reference in this 19144
chapter to the Internal Revenue Code includes other laws of the 19145
United States relating to federal income taxes. 19146

(L) "Calendar quarter" means a three-month period ending 19147
on the thirty-first day of March, the thirtieth day of June, the 19148
thirtieth day of September, or the thirty-first day of December. 19149

(M) "Tax period" means the calendar quarter or calendar 19150
year on the basis of which a taxpayer is required to pay the tax 19151
imposed under this chapter. 19152

(N) "Calendar year taxpayer" means a taxpayer for which 19153
the tax period is a calendar year. 19154

(O) "Calendar quarter taxpayer" means a taxpayer for which 19155
the tax period is a calendar quarter. 19156

(P) "Agent" means a person authorized by another person to 19157
act on its behalf to undertake a transaction for the other, 19158
including any of the following: 19159

(1) A person receiving a fee to sell financial 19160
instruments; 19161

(2) A person retaining only a commission from a 19162
transaction with the other proceeds from the transaction being 19163
remitted to another person; 19164

(3) A person issuing licenses and permits under section 19165
1533.13 of the Revised Code; 19166

(4) A lottery sales agent holding a valid license issued 19167
under section 3770.05 of the Revised Code; 19168

(5) A person acting as an agent of the division of liquor 19169
control under section 4301.17 of the Revised Code. 19170

(Q) "Received" includes amounts accrued under the accrual method of accounting. 19171
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(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group. 19173
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Sec. 5751.08. (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed by the reporting person with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax, or within any additional period allowed under division (F) of section 5751.09 of the Revised Code. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund. 19180
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(B) On the filing of the refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code. 19191
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(C) Interest on a refund applied for under this section, 19200

computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

(D) A calendar quarter taxpayer with more than one million dollars in taxable gross receipts in a calendar year other than calendar year 2005 and that is not able to exclude one million dollars in taxable gross receipts because of the operation of the taxpayer's business in that calendar year may file for a refund under this section to obtain the full exclusion of one million dollars in taxable gross receipts for that calendar year.

(E) Except as provided in section 5751.081 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for the crediting against tax due for a tax ~~year period~~ the amount of any refund due the taxpayer under this chapter for a preceding tax ~~year period~~.

Sec. 5751.09. (A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any person that fails to file a return or pay any tax as required by this chapter. The commissioner shall give the person assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on the manner in which to petition for reassessment and request a hearing with respect to the petition. The commissioner shall send any assessments against consolidated elected taxpayer and combined taxpayer groups under section 5751.011 or 5751.012 of the Revised Code to the taxpayer's ~~"reporting person" as defined under division (R) of section 5751.01 of the Revised Code.~~ The reporting person shall notify all members of the group of the

assessment and all outstanding taxes, interest, and penalties 19231
for which the assessment is issued. 19232

(B) Unless the person assessed, within sixty days after 19233
service of the notice of assessment, files with the tax 19234
commissioner, either personally or by certified mail, a written 19235
petition signed by the person or the person's authorized agent 19236
having knowledge of the facts, the assessment becomes final, and 19237
the amount of the assessment is due and payable from the person 19238
assessed to the treasurer of state. The petition shall indicate 19239
the objections of the person assessed, but additional objections 19240
may be raised in writing if received by the commissioner prior 19241
to the date shown on the final determination. 19242

If a petition for reassessment has been properly filed, 19243
the commissioner shall proceed under section 5703.60 of the 19244
Revised Code. 19245

(C) (1) After an assessment becomes final, if any portion 19246
of the assessment, including accrued interest, remains unpaid, a 19247
certified copy of the tax commissioner's entry making the 19248
assessment final may be filed in the office of the clerk of the 19249
court of common pleas in the county in which the person resides 19250
or has its principal place of business in this state, or in the 19251
office of the clerk of court of common pleas of Franklin county. 19252

(2) Immediately upon the filing of the entry, the clerk 19253
shall enter judgment for the state against the person assessed 19254
in the amount shown on the entry. The judgment may be filed by 19255
the clerk in a loose-leaf book entitled, "special judgments for 19256
the commercial activity tax" and shall have the same effect as 19257
other judgments. Execution shall issue upon the judgment at the 19258
request of the tax commissioner, and all laws applicable to 19259
sales on execution shall apply to sales made under the judgment. 19260

(3) If the assessment is not paid in its entirety within 19261
sixty days after the day the assessment was issued, the portion 19262
of the assessment consisting of tax due shall bear interest at 19263
the rate per annum prescribed by section 5703.47 of the Revised 19264
Code from the day the tax commissioner issues the assessment 19265
until it is paid or until it is certified to the attorney 19266
general for collection under section 131.02 of the Revised Code, 19267
whichever comes first. If the unpaid portion of the assessment 19268
is certified to the attorney general for collection, the entire 19269
unpaid portion of the assessment shall bear interest at the rate 19270
per annum prescribed by section 5703.47 of the Revised Code from 19271
the date of certification until the date it is paid in its 19272
entirety. Interest shall be paid in the same manner as the tax 19273
and may be collected by the issuance of an assessment under this 19274
section. 19275

(D) If the tax commissioner believes that collection of 19276
the tax will be jeopardized unless proceedings to collect or 19277
secure collection of the tax are instituted without delay, the 19278
commissioner may issue a jeopardy assessment against the person 19279
liable for the tax. Immediately upon the issuance of the 19280
jeopardy assessment, the commissioner shall file an entry with 19281
the clerk of the court of common pleas in the manner prescribed 19282
by division (C) of this section. Notice of the jeopardy 19283
assessment shall be served on the person assessed or the 19284
person's authorized agent in the manner provided in section 19285
5703.37 of the Revised Code within five days of the filing of 19286
the entry with the clerk. The total amount assessed is 19287
immediately due and payable, unless the person assessed files a 19288
petition for reassessment in accordance with division (B) of 19289
this section and provides security in a form satisfactory to the 19290
commissioner and in an amount sufficient to satisfy the unpaid 19291

balance of the assessment. Full or partial payment of the 19292
assessment does not prejudice the commissioner's consideration 19293
of the petition for reassessment. 19294

(E) The tax commissioner shall immediately forward to the 19295
treasurer of state all amounts the commissioner receives under 19296
this section, and such amounts shall be considered as revenue 19297
arising from the tax imposed under this chapter. 19298

(F) Except as otherwise provided in this division, no 19299
assessment shall be made or issued against a taxpayer for the 19300
tax imposed under this chapter more than four years after the 19301
due date for the filing of the return for the tax period for 19302
which the tax was reported, or more than four years after the 19303
return for the tax period was filed, whichever is later. The 19304
time limit may be extended if both the taxpayer and the 19305
commissioner consent in writing to the extension or enter into 19306
an agreement waiving or extending the time limit. Any such 19307
extension shall extend the four-year time limit in division ~~(B)~~ 19308
(A) of section 5751.08 of the Revised Code for the same period 19309
of time. Nothing in this division bars an assessment against a 19310
taxpayer that fails to file a return required by this chapter or 19311
that files a fraudulent return. 19312

(G) If the tax commissioner possesses information that 19313
indicates that the amount of tax a taxpayer is required to pay 19314
under this chapter exceeds the amount the taxpayer paid, the tax 19315
commissioner may audit a sample of the taxpayer's gross receipts 19316
over a representative period of time to ascertain the amount of 19317
tax due, and may issue an assessment based on the audit. The tax 19318
commissioner shall make a good faith effort to reach agreement 19319
with the taxpayer in selecting a representative sample. The tax 19320
commissioner may apply a sampling method only if the 19321

commissioner has prescribed the method by rule. 19322

(H) If the whereabouts of a person subject to this chapter 19323
is not known to the tax commissioner, the commissioner shall 19324
follow the procedures under section 5703.37 of the Revised Code. 19325

Sec. 5751.40. (A) As used in this section and division (F) 19326
(2) (z) of section 5751.01 of the Revised Code: 19327

(1) "Qualifying distribution center receipts" means 19328
receipts of a supplier from qualified property that is delivered 19329
to a qualified distribution center, multiplied by a quantity 19330
that equals one minus the Ohio delivery percentage. If the 19331
qualified distribution center is a refining facility, "supplier" 19332
includes all dealers, brokers, processors, sellers, vendors, 19333
cosigners, and distributors of qualified property. 19334

(2) "Qualified property" means tangible personal property 19335
delivered to a qualified distribution center that is shipped to 19336
that qualified distribution center solely for further shipping 19337
by the qualified distribution center to another location in this 19338
state or elsewhere or, in the case of gold, silver, platinum, or 19339
palladium delivered to a refining facility solely for refining 19340
to a grade and fineness acceptable for delivery to a registered 19341
commodities exchange. "Further shipping" includes storing and 19342
repackaging property into smaller or larger bundles, so long as 19343
the property is not subject to further manufacturing or 19344
processing. "Refining" is limited to extracting impurities from 19345
gold, silver, platinum, or palladium through smelting or some 19346
other process at a refining facility. 19347

(3) "Qualified distribution center" means a warehouse, a 19348
facility similar to a warehouse, or a refining facility in this 19349
state that, for the qualifying year, is operated by a person 19350

that is not part of a combined taxpayer group and that has a 19351
qualifying certificate. All warehouses or facilities similar to 19352
warehouses that are operated by persons in the same taxpayer 19353
group and that are located within one mile of each other shall 19354
be treated as one qualified distribution center. All refining 19355
facilities that are operated by persons in the same taxpayer 19356
group and that are located in the same or adjacent counties may 19357
be treated as one qualified distribution center. 19358

(4) "Qualifying year" means the calendar year to which the 19359
qualifying certificate applies. 19360

(5) "Qualifying period" means the period of the first day 19361
of July of the second year preceding the qualifying year through 19362
the thirtieth day of June of the year preceding the qualifying 19363
year. 19364

(6) "Qualifying certificate" means the certificate issued 19365
by the tax commissioner after the operator of a distribution 19366
center files an annual application with the commissioner under 19367
division (B) of this section. 19368

(7) "Ohio delivery percentage" means the proportion of the 19369
total property delivered to a destination inside Ohio from the 19370
qualified distribution center during the qualifying period 19371
compared with total deliveries from such distribution center 19372
everywhere during the qualifying period. 19373

(8) "Refining facility" means one or more buildings 19374
located in a county in the Appalachian region of this state as 19375
defined by section 107.21 of the Revised Code and utilized for 19376
refining or smelting gold, silver, platinum, or palladium to a 19377
grade and fineness acceptable for delivery to a registered 19378
commodities exchange. 19379

(9) "Registered commodities exchange" means a board of 19380
trade, such as New York mercantile exchange, inc. or commodity 19381
exchange, inc., designated as a contract market by the commodity 19382
futures trading commission under the "Commodity Exchange Act," 7 19383
U.S.C. 1 et seq., as amended. 19384

(10) "Ineligible operator's supplier tax liability" means 19385
an amount equal to the tax liability of all suppliers of a 19386
distribution center had the distribution center not been issued 19387
a qualifying certificate for the qualifying year. Ineligible 19388
operator's supplier tax liability shall not include interest or 19389
penalties. 19390

(B) For purposes of division (B) of this section, 19391
"supplier" excludes any person that is part of the consolidated 19392
elected taxpayer group, if applicable, of the operator of the 19393
qualified distribution center. 19394

(1) An application for a qualifying certificate to be a 19395
qualified distribution center shall be filed, and an annual fee 19396
paid, for each qualified distribution center on or before the 19397
first day of September before the qualifying year or within 19398
forty-five days after the distribution center opens, whichever 19399
is later. The applicant must substantiate to the commissioner's 19400
satisfaction that, for the qualifying period, all persons 19401
operating the distribution center have more than fifty per cent 19402
of the cost of the qualified property shipped to a location such 19403
that it would be situated outside this state under the provisions 19404
of division (E) of section 5751.033 of the Revised Code. The 19405
applicant must also substantiate that the distribution center 19406
cumulatively had costs from its suppliers equal to or exceeding 19407
five hundred million dollars during the qualifying period. 19408

The commissioner may require an applicant to have an 19409

independent certified public accountant certify that the 19410
calculation of the minimum thresholds required for a qualified 19411
distribution center by the operator of a distribution center has 19412
been made in accordance with generally accepted accounting 19413
principles. The commissioner shall issue or deny the issuance of 19414
a certificate within sixty days after the receipt of the 19415
application. A denial is subject to appeal under section 5717.02 19416
of the Revised Code. If the operator files a timely appeal under 19417
section 5717.02 of the Revised Code, the operator shall be 19418
granted a qualifying certificate effective for the remainder of 19419
the qualifying year or until the appeal is finalized, whichever 19420
is earlier. If the operator does not prevail in the appeal, the 19421
operator shall pay the ineligible operator's supplier tax 19422
liability. 19423

(2) If the distribution center is new and was not open for 19424
the entire qualifying period, the operator of the distribution 19425
center may request that the commissioner grant a qualifying 19426
certificate. If the certificate is granted and it is later 19427
determined that more than fifty per cent of the qualified 19428
property during that year was not shipped to a location such 19429
that it would be situated outside of this state under the 19430
provisions of division (E) of section 5751.033 of the Revised 19431
Code or if it is later determined that the person that operates 19432
the distribution center had average monthly costs from its 19433
suppliers of less than forty million dollars during that year, 19434
then the operator of the distribution center shall pay the 19435
ineligible operator's supplier tax liability. 19436

(3) The commissioner may grant a qualifying certificate to 19437
a distribution center that does not qualify as a qualified 19438
distribution center for an entire qualifying period if the 19439
operator of the distribution center demonstrates that the 19440

business operations of the distribution center have changed or 19441
will change such that the distribution center will qualify as a 19442
qualified distribution center within thirty-six months after the 19443
date the operator first applies for a certificate. If, at the 19444
end of that thirty-six-month period, the business operations of 19445
the distribution center have not changed such that the 19446
distribution center qualifies as a qualified distribution 19447
center, the operator of the distribution center shall pay the 19448
ineligible operator's supplier tax liability for each year that 19449
the distribution center received a certificate but did not 19450
qualify as a qualified distribution center. For each year the 19451
distribution center receives a certificate under division (B) (3) 19452
of this section, the distribution center shall pay all 19453
applicable fees required under this section and shall submit an 19454
updated business plan showing the progress the distribution 19455
center made toward qualifying as a qualified distribution center 19456
during the preceding year. 19457

(4) An operator may appeal a determination under division 19458
(B) (1) or (2) of this section that the ineligible operator is 19459
liable for the operator's supplier tax liability as a result of 19460
not qualifying as a qualified distribution center, as provided 19461
in section 5717.02 of the Revised Code. 19462

(C) (1) When filing an application for a qualifying 19463
certificate under division (B) (1) of this section, the operator 19464
of a qualified distribution center also shall provide 19465
documentation, as the commissioner requires, for the 19466
commissioner to ascertain the Ohio delivery percentage. The 19467
commissioner, upon issuing the qualifying certificate, also 19468
shall certify the Ohio delivery percentage. The operator of the 19469
qualified distribution center may appeal the commissioner's 19470
certification of the Ohio delivery percentage in the same manner 19471

as an appeal is taken from the denial of a qualifying 19472
certificate under division (B) (1) of this section. 19473

(2) In the case where the distribution center is new and 19474
not open for the entire qualifying period, the operator shall 19475
make a good faith estimate of an Ohio delivery percentage for 19476
use by suppliers in their reports of taxable gross receipts for 19477
the remainder of the qualifying period. The operator of the 19478
facility shall disclose to the suppliers that such Ohio delivery 19479
percentage is an estimate and is subject to recalculation. By 19480
the due date of the next application for a qualifying 19481
certificate, the operator shall determine the actual Ohio 19482
delivery percentage for the estimated qualifying period and 19483
proceed as provided in division (C) (1) of this section with 19484
respect to the calculation and recalculation of the Ohio 19485
delivery percentage. The supplier is required to file, within 19486
sixty days after receiving notice from the operator of the 19487
qualified distribution center, amended reports for the impacted 19488
calendar quarter or quarters or calendar year, whichever the 19489
case may be. Any additional tax liability or tax overpayment 19490
shall be subject to interest but shall not be subject to the 19491
imposition of any penalty so long as the amended returns are 19492
timely filed. 19493

(3) The operator of a distribution center that receives a 19494
qualifying certificate under division (B) (3) of this section 19495
shall make a good faith estimate of the Ohio delivery percentage 19496
that the operator estimates will apply to the distribution 19497
center at the end of the thirty-six-month period after the 19498
operator first applied for a qualifying certificate under that 19499
division. The result of the estimate shall be multiplied by a 19500
factor of one and seventy-five one-hundredths. The product of 19501
that calculation shall be the Ohio delivery percentage used by 19502

suppliers in their reports of taxable gross receipts for each 19503
qualifying year that the distribution center receives a 19504
qualifying certificate under division (B) (3) of this section, 19505
except that, if the product is less than five per cent, the Ohio 19506
delivery percentage used shall be five per cent and that, if the 19507
product exceeds forty-nine per cent, the Ohio delivery 19508
percentage used shall be forty-nine per cent. 19509

(D) Qualifying certificates and Ohio delivery percentages 19510
issued by the commissioner shall be open to public inspection 19511
and shall be timely published by the commissioner. A supplier 19512
relying in good faith on a certificate issued under this section 19513
shall not be subject to tax on the qualifying distribution 19514
center receipts under this section and division (F) (2) (z) of 19515
section 5751.01 of the Revised Code. An operator receiving a 19516
qualifying certificate is liable for the ineligible operator's 19517
supplier tax liability for each year the operator received a 19518
certificate but did not qualify as a qualified distribution 19519
center. 19520

(E) The tax commissioner shall determine an ineligible 19521
operator's supplier tax liability based on information that the 19522
commissioner may request from the operator of the distribution 19523
center. An operator shall provide a list of all suppliers of the 19524
distribution center and the corresponding costs of qualified 19525
property for the qualifying year at issue within sixty days of a 19526
request by the commissioner under this division. 19527

(F) The annual fee for a qualifying certificate shall be 19528
one hundred thousand dollars for each qualified distribution 19529
center. If a qualifying certificate is not issued, the annual 19530
fee is subject to refund after the exhaustion of all appeals 19531
provided for in division (B) (1) of this section. The first one 19532

hundred thousand dollars of the annual application fees 19533
collected each calendar year shall be credited to the revenue 19534
enhancement fund. The remainder of the annual application fees 19535
collected shall be distributed in the same manner required under 19536
section 5751.20 of the Revised Code. 19537

(G) The tax commissioner may require that adequate 19538
security be posted by the operator of the distribution center on 19539
appeal when the commissioner disagrees that the applicant has 19540
met the minimum thresholds for a qualified distribution center 19541
as set forth in this section. 19542

Sec. 5751.41. (A) As used in this section and division (F) 19543
(2) (gg) of section 5751.01 of the Revised Code: 19544

(1) "Qualified uranium receipts" means receipts from the 19545
sale, exchange, lease, loan, production, processing, or other 19546
disposition of uranium within a uranium enrichment zone 19547
certified by the tax commissioner under division (B) of this 19548
section. "Qualified uranium receipts" does not include any 19549
receipts with a situs in this state outside a uranium enrichment 19550
zone certified by the tax commissioner under that division. 19551

(2) "Uranium enrichment zone" means all real property that 19552
is part of a uranium enrichment facility licensed by the United 19553
States nuclear regulatory commission and that was or is owned or 19554
controlled by the United States department of energy or its 19555
successor. 19556

(B) Any person that owns, leases, or operates real or 19557
tangible personal property constituting or located within a 19558
uranium enrichment zone may apply to the tax commissioner to 19559
have the uranium enrichment zone certified for the purpose of 19560
excluding qualified uranium receipts under this section and 19561

division (F) (2) (gg) of section 5751.01 of the Revised Code. The 19562
application shall include such information that the tax 19563
commissioner prescribes. Within sixty days after receiving the 19564
application, the tax commissioner shall certify the zone for 19565
that purpose if the commissioner determines that the property 19566
qualifies as a uranium enrichment zone, or, if the tax 19567
commissioner determines that the property does not qualify, the 19568
commissioner shall deny the application or request additional 19569
information from the applicant. If the tax commissioner denies 19570
an application, the commissioner shall state the reasons for the 19571
denial. The applicant may appeal the denial of an application to 19572
the board of tax appeals pursuant to section 5717.02 of the 19573
Revised Code. If the applicant files a timely appeal, the tax 19574
commissioner shall conditionally certify the applicant's 19575
property. The conditional certification shall expire when all of 19576
the applicant's appeals are exhausted. Until final resolution of 19577
the appeal, the applicant shall retain the applicant's records 19578
in accordance with section 5751.12 of the Revised Code, 19579
notwithstanding any time limit on the preservation of records 19580
under that section. 19581

Sec. 5751.42. (A) As used in this section and division (F) 19582
(2) (jj) of section 5751.01 of the Revised Code: 19583

(1) "Qualifying integrated supply chain receipts" means 19584
receipts of a qualified integrated supply chain vendor from the 19585
sale of qualified property delivered to, or integrated supply 19586
chain services provided to, another qualified integrated supply 19587
chain vendor or to a retailer that is a member of the integrated 19588
supply chain. "Qualifying integrated supply chain receipts" does 19589
not include receipts of a person that is not a qualified 19590
integrated supply chain vendor from the sale of raw materials to 19591
a member of an integrated supply chain, or receipts of a member 19592

of an integrated supply chain from the sale of qualified 19593
property or integrated supply chain services to a person that is 19594
not a member of the integrated supply chain. 19595

(2) "Qualified property" means any of the following: 19596

(a) Component parts used to hold, contain, package, or 19597
dispense qualified products, excluding equipment. 19598

(b) Work-in-process inventory that will become, comprise, 19599
or form a component part of a qualified product capable of being 19600
sold at retail, excluding equipment, machinery, furniture, and 19601
fixtures. 19602

(c) Finished goods inventory that is a qualified product 19603
capable of being sold at retail in the inventory's present form. 19604

(3) "Qualified integrated supply chain vendor" means a 19605
person that is a member of an integrated supply chain and that 19606
provides integrated supply chain services within a qualified 19607
integrated supply chain district to a retailer that is a member 19608
of the integrated supply chain or to another qualified 19609
integrated supply chain vendor that is located within the same 19610
such district as the person but does not share a common owner 19611
with that person. 19612

(4) "Qualified product" means a personal care, health, or 19613
beauty product or an aromatic product, including a candle. 19614
"Qualified product" does not include a drug that may be 19615
dispensed only pursuant to a prescription, durable medical 19616
equipment, mobility enhancing equipment, or a prosthetic device, 19617
as those terms are defined in section 5739.01 of the Revised 19618
Code. 19619

(5) "Integrated supply chain" means two or more qualified 19620
integrated supply chain vendors certified on the most recent 19621

list certified to the tax commissioner under division (B) of 19622
this section that systematically collaborate and coordinate 19623
business operations with a retailer on the flow of tangible 19624
personal property from material sourcing through manufacturing, 19625
assembly, packaging, and delivery to the retailer to improve 19626
long-term financial performance of each vendor and the supply 19627
chain that includes the retailer. 19628

(6) "Integrated supply chain services" means procuring raw 19629
materials or manufacturing, processing, refining, assembling, 19630
packaging, or repackaging tangible personal property that will 19631
become finished goods inventory capable of being sold at retail 19632
by a retailer that is a member of an integrated supply chain. 19633

(7) "Retailer" means a person primarily engaged in making 19634
retail sales and any member of that person's consolidated 19635
elected taxpayer group or combined taxpayer group, whether or 19636
not that member is primarily engaged in making retail sales. 19637

(8) "Qualified integrated supply chain district" means the 19638
parcel or parcels of land from which a retailer's integrated 19639
supply chain that existed on September 29, 2015, provides or 19640
receives integrated supply chain services, and to which all of 19641
the following apply: 19642

(a) The parcel or parcels are located wholly in a county 19643
having a population of greater than one hundred sixty-five 19644
thousand but less than one hundred seventy thousand based on the 19645
2010 federal decennial census. 19646

(b) The parcel or parcels are located wholly in the 19647
corporate limits of a municipal corporation with a population 19648
greater than seven thousand five hundred and less than eight 19649
thousand based on the 2010 federal decennial census that is 19650

partly located in the county described in division (A) (8) (a) of 19651
this section, as those corporate limits existed on September 29, 19652
2015. 19653

(c) The aggregate acreage of the parcel or parcels equals 19654
or exceeds one hundred acres. 19655

(B) For the purpose of the certification under division 19656
(A) (5) of this section, the reporting person for each retailer, 19657
on or before the first day of October of each year, shall 19658
certify to the tax commissioner a list of the qualified 19659
integrated supply chain vendors providing or receiving 19660
integrated supply chain services within a qualified integrated 19661
supply chain district for the ensuing calendar year. On or 19662
before the following first day of November, the commissioner 19663
shall issue a certificate to the retailer and to each vendor 19664
certified to the commissioner on that list. The certificate 19665
shall include the names of the retailer and of the qualified 19666
integrated supply chain vendors. 19667

The retailer shall notify the commissioner of any changes 19668
to the list, including additions to or subtractions from the 19669
list or changes in the name or legal entity of vendors certified 19670
on the list, within sixty days after the date the retailer 19671
becomes aware of the change. Within thirty days after receiving 19672
that notification, the commissioner shall issue a revised 19673
certificate to the retailer and to each vendor certified on the 19674
list. The revised certificate shall include the effective date 19675
of the change. 19676

Each recipient of a certificate issued pursuant to this 19677
division shall maintain a copy of the certificate for four years 19678
from the date the certificate was received. 19679

Sec. 5751.50. (A) For tax periods beginning on or after 19680
January 1, 2008, a refundable credit granted by the tax credit 19681
authority under section 122.17 or former division (B) (2) or (3) 19682
of section 122.171 of the Revised Code, as those divisions 19683
existed before September 29, 2015, the effective date of the 19684
amendment of this section by H.B. 64 of the 131st general 19685
assembly, may be claimed under this chapter in the order 19686
required under section 5751.98 of the Revised Code. For purposes 19687
of making tax payments under this chapter, taxes equal to the 19688
amount of the refundable credit shall be considered to be paid 19689
to this state on the first day of the tax period. A credit 19690
claimed in calendar year 2008 may not be applied against the tax 19691
otherwise due for a tax period beginning before July 1, 2008. 19692
The refundable credit shall not be claimed against the tax 19693
otherwise due for any tax period beginning after the date on 19694
which a relocation of employment positions occurs in violation 19695
of an agreement entered into under section 122.17 or 122.171 of 19696
the Revised Code. 19697

(B) For tax periods beginning on or after January 1, 2008, 19698
a nonrefundable credit granted by the tax credit authority under 19699
division (B) of section 122.171 of the Revised Code may be 19700
claimed under this chapter in the order required under section 19701
5751.98 of the Revised Code. A credit claimed in calendar year 19702
2008 may not be applied against the tax otherwise due under this 19703
chapter for a tax period beginning before July 1, 2008. The 19704
credit shall not be claimed against the tax otherwise due for 19705
any tax period beginning after the date on which a relocation of 19706
employment positions occurs in violation of an agreement entered 19707
into under section 122.17 or 122.171 of the Revised Code. No 19708
credit shall be allowed under this chapter if the credit was 19709
available against the tax imposed by section 5733.06 or 5747.02 19710

of the Revised Code, except to the extent the credit was not 19711
applied against such tax. 19712

Sec. 5751.51. (A) As used in this section, "qualified 19713
research expenses" has the same meaning as in section 41 of the 19714
Internal Revenue Code. 19715

(B) (1) For ~~tax periods~~ calendar years beginning on or 19716
after January 1, 2008, a nonrefundable credit may be claimed 19717
under this chapter equal to seven per cent of the excess of (a) 19718
qualified research expenses incurred in this state by the 19719
taxpayer in the ~~tax period~~ calendar year for which the credit is 19720
claimed over (b) the taxpayer's average annual qualified 19721
research expenses incurred in this state for the three preceding 19722
~~tax periods~~ calendar years. 19723

(2) The taxpayer shall claim the credit allowed under 19724
division (B) (1) of this section in the order required by section 19725
5751.98 of the Revised Code. A credit claimed in ~~tax~~ calendar 19726
year 2008 may not be applied against the tax otherwise due under 19727
this chapter for a tax period beginning before July 1, 2008. Any 19728
credit amount in excess of the tax due under section 5751.03 of 19729
the Revised Code, after allowing for any other credits that 19730
precede the credit under this section in the order required 19731
under that section, may be carried forward for seven ~~tax~~ years, 19732
but the amount of the excess credit claimed against the tax for 19733
any tax period shall be deducted from the balance carried 19734
forward to the next tax period. 19735

(3) No credit shall be allowed under this chapter if the 19736
credit was available against the tax imposed by section 5733.06 19737
of the Revised Code, except to the extent the credit was not 19738
applied against such tax. 19739

Sec. 5751.98. (A) To provide a uniform procedure for 19740
calculating the amount of tax due under this chapter, a taxpayer 19741
shall claim any credits to which it is entitled in the following 19742
order: 19743

~~(1)~~—The nonrefundable jobs retention credit under division 19744
(B) of section 5751.50 of the Revised Code; 19745

~~(2)~~—The nonrefundable credit for qualified research 19746
expenses under division (B) of section 5751.51 of the Revised 19747
Code; 19748

~~(3)~~—The nonrefundable credit for a borrower's qualified 19749
research and development loan payments under division (B) of 19750
section 5751.52 of the Revised Code; 19751

~~(4)~~—The nonrefundable credit for calendar years 2010 to 19752
2029 for unused net operating losses under division (B) of 19753
section 5751.53 of the Revised Code; 19754

~~(5)~~—The refundable motion picture and Broadway theatrical 19755
production credit under section 5751.54 of the Revised Code; 19756

~~(6)~~—The refundable jobs creation credit or job retention 19757
credit under division (A) of section 5751.50 of the Revised 19758
Code; 19759

~~(7)~~—The refundable credit for calendar year 2030 for 19760
unused net operating losses under division (C) of section 19761
5751.53 of the Revised Code. 19762

(B) For any credit except the refundable credits 19763
enumerated in this section, the amount of the credit for a tax 19764
period shall not exceed the tax due after allowing for any other 19765
credit that precedes it in the order required under this 19766
section. Any excess amount of a particular credit may be carried 19767

forward if authorized under the section creating the credit. 19768

Sec. 5753.11. (A) As used in this section: 19769

(1) "Public school district" means any city, local, 19770
exempted village, or joint vocational school district, community 19771
school established under Chapter 3314. of the Revised Code, STEM 19772
school established under Chapter 3326. of the Revised Code, or 19773
college-preparatory boarding school established under Chapter 19774
3328. of the Revised Code. "Public school district" does not 19775
include any STEM school operated under section 3326.51 of the 19776
Revised Code. 19777

(2) "Student population" means the number of students 19778
residing in a county who are enrolled in a public school 19779
district in grades kindergarten through twelve and the total 19780
number of preschool children with disabilities on the following 19781
dates: 19782

(a) For the January distribution, the Friday of the first 19783
full school week in October; 19784

(b) For the August distribution, the Friday of the first 19785
full school week in May. 19786

(B) For the purpose of calculating student population, 19787
each public school district shall, twice annually, report to the 19788
department of education the students enrolled in the district on 19789
the days specified in division (A) (2) of this section. A student 19790
shall be considered to be enrolled in a public school district 19791
if the student is participating in education programs of the 19792
public school district and the public school district has not: 19793

(1) Received documentation from a parent terminating 19794
enrollment of the student; 19795

(2) Been provided documentation of a student's enrollment 19796
in another public or private school; or 19797

(3) Ceased to offer education to the student. 19798

If more than one public school district reports a student 19799
as enrolled, the department shall use procedures adopted by the 19800
department for the reconciliation of enrollment to determine the 19801
district of enrollment for purposes of this section. In the case 19802
of the dual enrollment of a student in a joint vocational school 19803
district and another public school district, the student shall 19804
be included in the enrollments for both schools. If the valid 19805
school district or enrollment cannot be determined in time for 19806
the certification, the count of these students shall be divided 19807
equally between the reporting districts. 19808

(C) The department of education shall certify to the 19809
department of taxation the student population for each county 19810
and the student population for each public school district 19811
located in whole or in part in the county on or before the 19812
thirtieth day of December, for the January distribution and on 19813
or before the thirtieth day of July, for the August 19814
distribution. A student shall be included in the school district 19815
enrollment for a county only if a student resides in that 19816
county. The location of each community school shall be the 19817
enrollment area required to be defined by the community school 19818
and its sponsor in accordance with division (A)(19) of section 19819
3314.03 of the Revised Code, the location of each STEM ~~schools~~ 19820
school shall be any county in which its enrolled students 19821
reside, and the location of the college-preparatory boarding 19822
schools shall be the territory of the school district in which 19823
the college-preparatory school is located or the territory of 19824
any city, exempted village, or local school district that has 19825

agreed to be a participating district under section 3328.04 of the Revised Code. 19826
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The student population count certified by the department of education to the department of taxation is final and shall not be adjusted by future updates to the counts. 19828
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(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: 19831
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(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. 19837
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(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. 19842
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(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. 19846
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The commissioner shall distribute to each public school district the amount so calculated for each district. 19851
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Section 2. That existing sections 122.075, 125.831, 131.45, 133.01, 133.06, 133.07, 133.18, 135.142, 305.31, 19853
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306.322, 307.671, 307.672, 307.674, 307.678, 307.695, 319.301, 19855
321.03, 321.20, 323.154, 323.155, 351.01, 351.03, 351.141, 19856
718.01, 718.021, 929.01, 1545.041, 1545.21, 1711.15, 1711.16, 19857
3316.03, 3316.06, 3317.01, 4301.20, 4582.024, 4582.26, 4582.56, 19858
5701.08, 5701.11, 5701.12, 5703.04, 5703.211, 5703.54, 5703.94, 19859
5703.95, 5705.03, 5705.13, 5705.19, 5705.195, 5705.213, 19860
5705.252, 5705.29, 5705.315, 5705.34, 5705.35, 5705.36, 5705.49, 19861
5709.201, 5709.43, 5709.48, 5709.53, 5709.61, 5709.80, 5709.85, 19862
5709.93, 5713.03, 5713.30, 5713.351, 5715.13, 5715.36, 5721.06, 19863
5721.191, 5721.39, 5725.98, 5726.50, 5726.98, 5727.02, 5727.11, 19864
5727.23, 5727.32, 5727.33, 5727.80, 5727.83, 5727.84, 5729.98, 19865
5733.042, 5733.05, 5733.052, 5733.055, 5733.40, 5733.98, 19866
5735.026, 5735.06, 5739.01, 5739.011, 5739.02, 5739.021, 19867
5739.028, 5739.03, 5739.034, 5739.08, 5739.09, 5739.21, 5740.02, 19868
5743.05, 5743.08, 5743.33, 5743.65, 5745.14, 5747.01, 5747.011, 19869
5747.012, 5747.013, 5747.02, 5747.058, 5747.061, 5747.07, 19870
5747.082, 5747.11, 5747.231, 5747.41, 5747.51, 5747.52, 5747.55, 19871
5747.98, 5748.08, 5748.09, 5751.01, 5751.08, 5751.09, 5751.50, 19872
5751.51, 5751.98, and 5753.11 of the Revised Code are hereby 19873
repealed. 19874

Section 3. That sections 901.13, 5705.211, 5727.87, 19875
5733.46, 5739.105, 5747.75, and 5751.23 of the Revised Code are 19876
hereby repealed. 19877

Section 4. That Section 757.40 of H.B. 166 of the 133rd 19878
General Assembly be amended to read as follows: 19879

Sec. 757.40. (A) As used in this section: 19880

(1) "Certificate owner" and "qualified rehabilitation 19881
expenditures" have the same meanings as in section 149.311 of 19882
the Revised Code. 19883

(2) "Taxpayer," "tax period," "excluded person," "combined taxpayer," and "consolidated elected taxpayer," have the same meanings as in section 5751.01 of the Revised Code. 19884
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(3) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code. 19887
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(B) A taxpayer that is the certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code may claim a credit against the tax levied by section 5751.02 of the Revised Code for tax periods ending on or before June 30, 2021, provided that the taxpayer is unable to claim the credit under section 5725.151, 5725.34, 5726.52, 5729.17, or 5747.76 of the Revised Code. 19889
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The credit shall equal the lesser of twenty-five per cent of the dollar amount of the qualified rehabilitation expenditures indicated on the certificate or five million dollars. The credit shall be claimed for the calendar year specified in the certificate and after the credits authorized in ~~divisions (A) (1) to (4) division (B) of section 5751.98-5751.50,~~ division (B) of section 5751.53, and sections 5751.51 and 5751.52 of the Revised Code, but before the credits authorized in ~~divisions (A) (5) to (7) of that division (A) of section 5751.50, division (C) of section 5751.53, and section 5751.54 of~~ the Revised Code. 19896
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If the credit allowed for any calendar year exceeds the tax otherwise due under section 5751.02 of the Revised Code, after allowing for any other credits preceding the credit in the order prescribed by this section, the excess shall be refunded to the taxpayer. However, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due for that year shall not exceed 19907
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three million dollars. The taxpayer may carry forward any 19914
balance of the credit in excess of the amount claimed for that 19915
year for not more than five calendar years after the calendar 19916
year specified in the certificate, and shall deduct any amount 19917
claimed in any such year from the amount claimed in an ensuing 19918
year. 19919

A person that is an excluded person may file a return 19920
under section 5751.051 of the Revised Code for the purpose of 19921
claiming the credit authorized in this section. 19922

If the certificate owner is a pass-through entity, the 19923
credit may not be allocated among the entity's owners in 19924
proportions or amounts as the owners mutually agree unless 19925
either the owners are part of the same combined or consolidated 19926
elected taxpayer as the pass-through entity or the director of 19927
development services issued the certificate in the name of the 19928
pass-through entity's owners in the agreed-upon proportions or 19929
amounts. If the credit is allocated among those owners, an owner 19930
may claim the credit authorized in this section only if that 19931
owner is a corporation or an association taxed as a corporation 19932
for federal income tax purposes and is not a corporation that 19933
has made an election under Subchapter S of Chapter 1 of Subtitle 19934
A of the Internal Revenue Code. 19935

The credit authorized in this section may be claimed only 19936
on the basis of a rehabilitation tax credit certificate with an 19937
effective date after December 31, 2013, but before June 30, 19938
2021. 19939

A person claiming a credit under this section shall retain 19940
the rehabilitation tax credit certificate for four years 19941
following the end of the latest calendar year in which the 19942
credit was applied, and shall make the certificate available for 19943

inspection by the tax commissioner upon request. 19944

Section 5. That existing Section 757.40 of H.B. 166 of the 19945
133rd General Assembly is hereby repealed. 19946

Section 6. The amendment by this act of division (B) (56) 19947
of section 5739.02 of the Revised Code applies on and after 19948
April 1, 2020. 19949

Section 7. This act shall be known as the "Tax Code 19950
Streamlining and Correction Act." 19951

Section 8. The General Assembly, applying the principle 19952
stated in division (B) of section 1.52 of the Revised Code that 19953
amendments are to be harmonized if reasonably capable of 19954
simultaneous operation, finds that the following sections, 19955
presented in this act as composites of the sections as amended 19956
by the acts indicated, are the resulting versions of the 19957
sections in effect prior to the effective date of the sections 19958
as presented in this act: 19959

Section 133.18 of the Revised Code as amended by Am. Sub. 19960
H.B. 48 of the 128th General Assembly and Am. Sub. H.B. 153 of 19961
the 129th General Assembly. 19962

Section 5705.19 of the Revised Code as amended by both 19963
Sub. H.B. 122 and Sub. H.B. 500 of the 132nd General Assembly. 19964

Section 9. This act is hereby declared to be an emergency 19965
measure necessary for the immediate preservation of the public 19966
peace, health, and safety. The reason for such necessity is to 19967
to enable the state to remain in compliance with the Streamlined 19968
Sales and Use Tax Agreement and to enable taxpayers to avoid 19969
making miscellaneous adjustments on their 2019 tax returns that 19970
increase costs of compliance. Therefore, this act shall go into 19971
immediate effect. 19972