

OHIO

SENATE

JOURNAL

TUESDAY, DECEMBER 22, 2020

TWO HUNDRED FIFTY-FOURTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, December 22, 2020, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Senator Kristina D. Roegner, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

BILLS FOR THIRD CONSIDERATION

Am. Sub. H. B. No. 150-Representative Merrin.

Cosponsors: Representatives Antani, Carruthers, Dean, DeVitis, Ginter, Hillyer, Hood, Jordan, Keller, Lanese, Lang, Manning, D., Patton, Perales, Richardson, Riedel, Roemer, Romanchuk, Seitz, Sheehy, Stein, Swearingen, Vitale, Wiggam, Zeltwanger. Senator Williams.

To amend sections 5726.01, 5726.02, 5726.04, 5726.06, and 5751.01 of the Revised Code to reduce the tax liability of newly formed banks by up to one million dollars per year for their first three years and to exclude the principal balance of mortgage loans sold by a mortgage lender from the lender's commercial activity tax gross receipts, having been informally passed were taken up.

The question being, "Shall the bill, **Am. Sub. H. B. No. 150**, pass?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Hackett moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Burke, Coley, Craig, Eklund, Hackett, Lehner, Roegner, Schaffer, Schuring, Sykes, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 75-Representative Merrin.

Cosponsors: Representatives Lang, Vitale, Romanchuk, Riedel, Seitz, Cross, Jordan, Becker, Keller, Stein, Butler, Callender, DeVitis, Edwards, Hambley,

Smith, T., Stephens, Stoltzfus, Zeltwanger.

To amend sections 5709.17 and 5715.19 of the Revised Code to modify the manner by which local governments may initiate or participate in property tax complaints and to expand the property tax exemption for fraternal organizations, having been informally passed were taking up.

The question being, "Shall the bill, **Sub. H. B. No. 75**, pass?"

Senator Peterson moved that **Sub. H. B. No. 75** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Sub. H. B. No. 236-Representatives Smith, T., Plummer.

Cosponsors: Representatives Wiggam, Riedel, Kent, Romanchuk, Schaffer, Green, Sheehy, Jones, LaRe, Carruthers, DeVitis, Ghanbari, Greenspan, Grendell, Hambley, Koehler, Manning, D., Perales, Roemer, Scherer, Stein, Stoltzfus, Strahorn. Senator Manning.

To amend sections 2903.11, 2903.12, 2903.13, and 2935.01 of the Revised Code to increase penalties for certain assault offenses if the victim is a hospital police officer or special police officer and to include gaming agents of the Casino Control Commission as peace officers under the general statutory definition of that term, having been informally passed were taken up.

The question being, "Shall the bill, **Sub. H. B. No. 236**, pass?"

Senator Peterson moved that **Sub. H. B. No. 236** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

H. B. No. 32-Representative Stein.

Cosponsors: Representatives Wiggam, Becker, Hambley, Russo, Skindell, Sobecki, Wilkin, Ghanbari, Ginter, Green, Grendell, Hicks-Hudson, Holmes, A., Lang, Miller, A., Miller, J., Patterson, Patton, Richardson, Riedel, Roemer, Rogers, Romanchuk, Speaker Cupp. Senators Coley, Fedor.

To enact section 5.015 of the Revised Code to create a suggested ceremonial procedure for retiring an Ohio state flag, was considered the third time.

The question being, "Shall the bill, **H. B. No. 32**, pass?"

Senator Craig moved to amend as follows:

In line 1 of the title, delete "section" and insert "sections"; after "5.015" insert ", 5.2522, 5.2524, 5.2525, and 5.2526"

In line 3 of the title, after "flag" insert "and to designate March as "Cardiac

Amyloidosis Recognition Month," April 26 as "Diabetic Ketoacidosis (DKA) Day," September as "Hirschsprung's Disease Awareness Month," and November 16 as "Sanfilippo Syndrome Awareness Day"; after "." insert ""

In line 4, delete "section" and insert "sections"; after "5.015" insert ", 5.2522, 5.2524, 5.2525, and 5.2526"

After line 61, insert:

"Sec. 5.2522. The sixteenth day of November is designated as "Sanfilippo Syndrome Awareness Day."

"Sec. 5.2524. The month of March is designated as "Cardiac Amyloidosis Recognition Month."

"Sec. 5.2525. The twenty-sixth day of April is designated as "Diabetic Ketoacidosis (DKA) Awareness Day."

"Sec. 5.2526. The month of September is designated as "Hirschsprung's Disease Awareness Month" to increase public awareness of Hirschsprung's disease and encourage caregivers of newborns to seek an early diagnosis and proper treatment of the disease."

The question being, "Shall the amendment be agreed to?"

The motion to amend was agreed to.

The question recurred, "Shall the bill, **H. B. No. 32**, pass?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Roegner moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Brenner, Burke, Craig, Dolan, Eklund, Gavarone, Hackett, Hoagland, Hottinger, Huffman, M., Johnson, Kunze, Lehner, Maharath, Manning, Obhof, O'Brien, Peterson, Roegner, Schaffer, Sykes, Thomas, Williams, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 38-Representative Hillyer.

Cosponsors: Representatives Cross, Hood, Miller, J., Riedel, Weinstein, Boyd, Carruthers, Crossman, Denson, Edwards, Galonski, Ghanbari, Hambley,

Holmes, A., Ingram, Lanese, Leland, Lightbody, Miranda, Reineke, Robinson, Roemer, Rogers, Seitz, Sheehy, Stein, Strahorn, Swearingen, West. Senator Hackett.

To amend sections 135.77, 135.774, 307.04, 1115.05, 1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 1322.09, 1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 1322.34, 1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2913.11, and 4712.05; to enact section 1319.17; and to repeal sections 1322.24, 1322.25, and 1349.16 of the Revised Code relating to commercial credit reports, the Business Linked Deposit Program, the General Loan Law, the Ohio Banking Law, the Consumer Installment Loan Act, the Residential Mortgage Loan Law, utility supply contract duration, and COVID-19-related property tax valuation complaints, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 38**, pass?"

Senator Peterson moved that **Sub. H. B. No. 38** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Sub. H. B. No. 295-Representative Hoops.

Cosponsors: Representatives Becker, Crossman, Riedel, Seitz, Green, McClain, Sheehy, Lepore-Hagan, O'Brien, Greenspan, Hambley, Hillyer, Kick, Lanese, Rogers, Scherer, Stein, West. Senator Hoagland.

To amend sections 4501.01, 4509.01, 4511.01, 4511.513, 4511.522, 4511.68, and 4511.711 and to enact section 4511.514 of the Revised Code to establish requirements governing low-speed micromobility devices and to make other changes to the law related to special modes of transportation, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 295**, pass?"

Senator McColley moved to amend as follows:

In line 1 of the title, after "sections" insert "1345.022,"

In line 3 of the title, after "to" insert "amend the law related to unsafe tires,"

In line 5 of the title, after "devices" insert ","

In line 8, after "sections" insert "1345.022,"

After line 10, insert:

"Sec. 1345.022. (A) As used in this section:

(1) ~~"Multipurpose passenger vehicle," "passenger Passenger car," and "truck" have has the same meanings meaning~~ as in section 4513.021 of the Revised Code.

(2) "Unsafe used tire" means a used tire to which any of the following

criteria applies:

(a) The tire is worn to two thirty-seconds of an inch tread depth or less on any area of the tread.

(b) The tire has any damage exposing the reinforcing plies of the tire, including cuts, cracks, punctures, scrapes, or wear.

(c) The tire has any repair in the tread shoulder or belt edge area.

(d) The tire has a puncture that has not been both sealed or patched on the inside and repaired with a cured rubber stem through the outside.

(e) The tire has repair to the sidewall or bead area of the tire.

(f) The tire has a puncture repair of damage larger than one-fourth of an inch.

(g) The tire shows evidence of prior use of a temporary tire sealant without evidence of a subsequent proper repair.

(h) The tire has a defaced or removed United States department of transportation tire identification number.

(i) The tire has any inner liner damage or bead damage.

(j) There is indication of internal separation, such as bulges or local areas of irregular tread wear indicating possible tread or belt separation.

(B)(1) No supplier shall install an unsafe used tire on a passenger car- ~~multipurpose passenger vehicle, or truck~~ designed primarily for carrying passengers that will operate on a public highway.

(2) A violation of division (B)(1) of this section shall be considered an unconscionable consumer sales act or practice under section 1345.03 of the Revised Code.

(C) This section shall not apply to tires mounted on wheels or rims that are temporarily removed from a vehicle and reinstalled on the same vehicle."

In line 1285, after "sections" insert "1345.022,"

The question being, "Shall the amendment be agreed to?"

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 295**, pass?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas

Williams

Wilson

Obhof-31

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator McColley moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Craig, Huffman, M."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 388-Representative Holmes, A.

Cosponsors: Representatives Butler, Edwards, Hambley, Perales, Roemer, Rogers, Romanchuk, West, Abrams, Baldrige, Brown, Carruthers, Cera, Clites, Crossman, DeVitis, Ghanbari, Ginter, Green, Greenspan, Grendell, Hicks-Hudson, Hillyer, Ingram, Jones, Lanese, Lang, LaRe, Leland, Lightbody, Liston, Manning, G., Miller, J., Miranda, O'Brien, Patton, Richardson, Robinson, Seitz, Sheehy, Smith, K., Smith, T., Sobecki, Stein, Sweeney, Upchurch, Weinstein, Wilkin. Senator Hackett.

To enact sections 3902.50, 3902.51, 3902.52, 3902.53, and 3902.54 of the Revised Code regarding out-of-network care, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 388**, pass?"

Senator Peterson moved that **Sub. H. B. No. 388** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Sub. H. B. No. 421-Representatives Smith, T., Blair.

Cosponsors: Representatives Carruthers, Becker, Seitz, Abrams, O'Brien, Hambley, Galonski, Hillyer, Clites, Crossman, Ghanbari, Ingram, Miller, J., Rogers.

To amend sections 2744.01, 2744.05, and 4973.17 of the Revised Code to provide a municipal corporation or county immunity from civil and criminal liability in any action that arises from a hospital police officer acting directly in the discharge of the person's duties as a police officer and that occurs on the premises of the hospital or its affiliates or subsidiaries or elsewhere in the municipal corporation or county and to modify the definition of "emergency call", was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 421**, pass?"

Senator Peterson moved that **Sub. H. B. No. 421** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Sub. H. B. No. 444-Representatives Baldrige, Abrams.

Cosponsors: Representatives Carfagna, Seitz, Lang, Blair, Stoltzfus, Ginter, Hambley, Carruthers, Grendell, Swearingen, Stephens, Riedel, Jones, Keller, Cross, Roemer, O'Brien, Smith, T., Clites, Wiggam, Ghanbari, Rogers, Scherer. Senators Hackett, Manning, Maharath.

To amend sections 3.061, 3.30, 9.65, 165.01, 165.03, 503.07, 505.43, 505.86, 505.87, 505.871, 517.27, 715.82, 742.33, 742.34, 1545.05, 1710.02, 1907.15, 2151.70, 2152.42, 3721.15, 4503.03, 4765.43, 5153.13, and 5705.25 of the Revised Code to make various changes to township law, to make changes to the laws governing ambulance staffing, and to abate certain unpaid property taxes, penalties, and interest due on property that had been owned by a state college or university, but is currently owned by a township, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 444**, pass?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Manning moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Brenner, Coley, Craig, Eklund, Hoagland, Kunze, O'Brien, Sykes, Thomas, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 464-Speaker Cupp, Representative Rogers.

Cosponsors: Representatives Lipps, Seitz, Hambley, Grendell, Miranda, Roemer, Ingram, Miller, J., Carruthers, Galonski, Hicks-Hudson, Miller, A., Patterson, Reineke, Scherer, Skindell, West. Senators Manning, Coley, Eklund.

To amend sections 339.02, 1721.21, 1901.123, 1907.143, 2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 2111.10, 2111.50, 2133.07, 2701.10, 2717.01, 5122.15, 5804.11, 5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10, and 5816.14; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2717.01 (2717.02); to enact new section 2717.01 and sections 2717.03, 2717.04, 2717.05, 2717.06, 2717.07, 2717.08, 2717.09, 2717.10, 2717.11, 2717.13,

2717.14, 2717.16, 2717.18, and 2717.19; and to repeal section 2133.16 of the Revised Code to expand a guardian's authority to create estate plans for their wards, to clarify a surviving spouse's allowance for support upon the spouse's selection of an automobile, to make changes in the Ohio Trust Code and the Ohio Legacy Trust Act, to make changes in the law pertaining to the referral of actions to a retired judge, to make changes to the law regarding cemetery endowment care trusts, to permit a nonprofit corporation to serve as guardian of the person of an incompetent, to eliminate a donor's ability to make an anatomical gift through a will or a declaration or living will, to clarify the membership of the appointing authority for boards of county hospital trustees, and to make changes to the laws dealing with reimbursement of municipal and county court judges, procedures in involuntary mental health placements, and change of name procedures, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 464**, pass?"

Senator Peterson moved that **Sub. H. B. No. 464** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Sub. H. B. No. 609-Representative West.

Cosponsors: Representatives Leland, Galonski, Smith, K., O'Brien, Sobecki, Crawley, Blair, Rogers, Clites, Crossman, Ingram, Lanese, Lightbody, Manning, G., Miller, J., Roemer. Senators Schuring, Roegner.

To amend sections 5709.09, 5713.08, 5715.27, and 5739.02 of the Revised Code to require the Tax Commissioner to administer a temporary amnesty program with respect to delinquent state-administered taxes and fees, to credit most collections to the Budget Stabilization Fund, to authorize property and sales and use tax exemptions, to modify property tax exemption procedures for community schools, to repeal Section 4 of this act on July 16, 2021, and to make an appropriation, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 609**, pass?"

Senator Peterson moved that **Sub. H. B. No. 609** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Am. Sub. H. B. No. 665-Representatives Jones, Wilkin.

Cosponsors: Representatives Smith, T., Baldrige, Stoltzfus, Clites, Cutrona, Edwards, Ghanbari, Lipps, McClain, Stephens, Swearingen, Wiggam.

To amend sections 901.06, 901.71, 901.74, 1711.01, 1711.02, 1711.03, 1711.05, 1711.07, 1711.08, 1711.09, 1711.11, 1711.13, 1711.22, 1711.26, 1711.33, 1711.50, 1711.51, 1711.52, 1711.53, 1711.532, 1711.533, 1711.534,

1711.54, 1711.55, 1711.551, 1711.552, 1711.56, 1711.57, 1711.99, 3749.01, 3769.082, 3769.0811, and 5709.10; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 901.06 (1711.06), 1711.50 (993.01), 1711.51 (993.02), 1711.52 (993.03), 1711.53 (993.04), 1711.531 (993.05), 1711.532 (993.041), 1711.533 (993.042), 1711.534 (993.043), 1711.54 (993.06), 1711.55 (993.07), 1711.551 (993.08), 1711.552 (993.071), 1711.56 (993.09), and 1711.57 (993.10); to enact sections 993.99, 1711.071, 1711.091, and 3769.086; and to repeal sections 755.35, 755.36, 755.37, 901.07, and 1711.06 of the Revised Code to modify the laws governing agricultural societies, to recodify the law governing amusement ride safety, and to address funding and other issues related to county and independent agricultural societies and the Ohio Expositions Commission, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 665**, pass?"

The yeas and nays were taken and resulted – yeas 22, nays 9, as follows:

Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Dolan	Eklund	Gavarone	Hackett
Hoagland	Hottinger	Huffman, M.	Huffman, S.
Johnson	Kunze	Manning	McColley
Peterson	Roegner	Schaffer	Schuring
Wilson			Obhof-22

Those who voted in the negative were: Senators

Antonio	Craig	Fedor	Lehner
Maharath	O'Brien	Sykes	Thomas
			Williams-9

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Hoagland moved to amend the title as follows:

Add the names: "Senators Blessing, Brenner, Burke, Coley, Eklund, Gavarone, Hackett, Hoagland, Huffman, M., Huffman, S., McColley, Peterson, Roegner, Schaffer."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 673-Representative Roemer.

Cosponsors: Representatives Wiggam, Crossman, Galonski, Hambley, Rogers, Seitz. Senators Schuring, Sykes.

To amend sections 4709.02, 4709.05, 4709.07, 4709.10, 4709.12, 4709.13, 4713.02, 4713.08, 4713.61, 4729.41, 4731.512, and 4928.66 and to enact sections 4709.071, 4713.351, and 4729.42 of the Revised Code and to amend Section 30 of H.B. 197 of the 133rd General Assembly regarding the operation of businesses, practice of certain professions, completion of education as it relates to COVID-19, public health, and membership of the

State Cosmetology and Barber Board, to modify the electric utility law regarding energy efficiency programs, and to declare an emergency, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 673**, pass?"

Senator Peterson moved that **Sub. H. B. No. 673** be informally passed and retain its place on the calendar.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Sub. S. B. No. 33 -Senator Hoagland

Cosponsors: Senators Peterson, Coley, Terhar, Wilson, Huffman, M., Rulli, Brenner, Burke, Eklund, Gavarone, Hackett, Huffman, S., McColley, O'Brien, Roegner, Schuring, Uecker Representatives Carfagna, Hillyer

To amend sections 2909.07, 2909.10, 2911.21, 2911.211, and 2917.32 and to enact sections 2307.67 and 2923.04 of the Revised Code to modify certain criminal offenses with respect to critical infrastructure facilities and to impose fines and civil liability for damage to a critical infrastructure facility.

As a substitute bill, in which the concurrence of the Senate is requested.

Attest:

Bradley J. Young,
Clerk.

Senator Peterson moved that the amendments of the House of Representatives to **Sub. S. B. No. 33**-Senator Hoagland, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted – yeas 24, nays 7, as follows:
Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Dolan	Eklund	Gavarone	Hackett
Hoagland	Hottinger	Huffman, M.	Huffman, S.
Johnson	Kunze	Lehner	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Wilson	Obhof-24

Senators Antonio, Craig, Fedor, Maharath, Sykes, Thomas, and Williams voted in the negative-7.

So the Senate concurred in the amendments of the House of Representatives.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Sub. S. B. No. 68 -Senator Williams

Cosponsors: Senators Antonio, Thomas, Sykes, Uecker, Huffman, M., Eklund, Brenner, Hackett, Maharath, Burke, Coley, Craig, Dolan, Fedor, Gavarone, Hoagland, Hottinger, Huffman, S., Kunze, Lehner, Manning, McColley, Obhof, O'Brien, Peterson, Rulli, Schuring, Terhar, Wilson, Yuko Representatives Lang, Leland, Crossman, Galonski, Seitz, West, Brent, Hicks-Hudson, Howse, Ingram, Lightbody, Merrin, Miller, A., Miller, J., O'Brien, Reineke, Russo, Sheehy, Smith, T., Sobecki, Stein, Strahorn, Sweeney, Sykes

To amend sections 109.73, 109.803, 3301.0721, 3314.03, 3326.11, 3328.24, 4503.102, 4505.071, 4506.08, 4506.13, 4506.14, 4507.09, 4507.11, 4507.21, 4507.23, 4507.24, 4507.30, 4507.50, 4507.52, 4508.02, 4510.10, 4511.521, 4779.08, 4779.10, 4779.11, 4779.12, 4779.17, 4779.18, and 4779.35 and to enact sections 3313.6025, 4501.025, 4501.027, 4507.112, 4507.40, and 4508.022 of the Revised Code to make changes to the laws governing police and driver education, driver's licenses and testing, motor vehicle title transactions, and Bureau of Motor Vehicles transactions; and to establish requirements related to orthotics and prosthetics licensure.

As a substitute bill, in which the concurrence of the Senate is requested.

Attest:

Bradley J. Young,
Clerk.

Senator Peterson moved that the amendments of the House of Representatives to **Sub. S. B. No. 68**-Senator Williams, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted – yeas 28, nays 3, as follows:
Those who voted in the affirmative were: Senators

Antonio

Blessing

Brenner

Burke

Craig	Dolan	Eklund	Fedor
Gavarone	Hackett	Hoagland	Hottinger
Huffman, M.	Huffman, S.	Johnson	Kunze
Lehner	Maharath	Manning	O'Brien
Peterson	Schaffer	Schuring	Sykes
Thomas	Williams	Wilson	Obhof-28

Senators Coley, McColley, and Roegner voted in the negative-3.

So the Senate concurred in the amendments of the House of Representatives.

Senator Coley moved to amend the title as follows:

Remove the name: "Senator Coley."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator McColley moved to amend the title as follows:

Remove the name: "Senator McColley."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

MOTIONS

Senator Hottinger moved that Senators absent the week of Sunday, December 20, 2020, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

On the motion of Senator Peterson, the Senate recessed until 7:50 p.m.

The Senate met pursuant to the recess.

BILLS FOR THIRD CONSIDERATION

Senator Peterson moved that **Sub. H. B. No. 464**, having been informally passed, be brought up for consideration.

Sub. H. B. No. 464-Speaker Cupp, Representative Rogers.

Cosponsors: Representatives Lipps, Seitz, Hambley, Grendell, Miranda, Roemer, Ingram, Miller, J., Carruthers, Galonski, Hicks-Hudson, Miller, A., Patterson, Reineke, Scherer, Skindell, West. Senators Manning, Coley, Eklund.

To amend sections 339.02, 1721.21, 1901.123, 1907.143, 2106.13, 2108.05, 2108.06, 2108.07, 2108.23, 2108.24, 2108.34, 2111.10, 2111.50, 2133.07, 2701.10, 2717.01, 5122.15, 5804.11, 5805.06, 5816.02, 5816.05, 5816.06, 5816.09, 5816.10, and 5816.14; to amend, for the purpose of adopting a new section number as indicated in parentheses, section 2717.01

(2717.02); to enact new section 2717.01 and sections 2717.03, 2717.04, 2717.05, 2717.06, 2717.07, 2717.08, 2717.09, 2717.10, 2717.11, 2717.13, 2717.14, 2717.16, 2717.18, and 2717.19; and to repeal section 2133.16 of the Revised Code to expand a guardian's authority to create estate plans for their wards, to clarify a surviving spouse's allowance for support upon the spouse's selection of an automobile, to make changes in the Ohio Trust Code and the Ohio Legacy Trust Act, to make changes in the law pertaining to the referral of actions to a retired judge, to make changes to the law regarding cemetery endowment care trusts, to permit a nonprofit corporation to serve as guardian of the person of an incompetent, to eliminate a donor's ability to make an anatomical gift through a will or a declaration or living will, to clarify the membership of the appointing authority for boards of county hospital trustees, and to make changes to the laws dealing with reimbursement of municipal and county court judges, procedures in involuntary mental health placements, and change of name procedures, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 464**, pass?"

Senator Gavarone moved to amend as follows:

In line 4 of the title, after "2717.01" insert ", 2945.37, 2945.371, 2945.38, 5122.02, 5122.03, 5122.11, 5122.111"

In line 12 of the title, delete the first "and"; after "2717.19" insert ", and 5122.112"

In line 28 of the title, after "trustees," insert "to make changes to the requirements for competency evaluations and mental health treatment in criminal cases,"

In line 35, after "2717.01" insert ", 2945.37, 2945.371, 2945.38, 5122.02, 5122.03, 5122.11, 5122.111"

In line 41, delete "and"; after "2717.19" insert ", and 5122.112"

After line 1477, insert:

"Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of the Revised Code:

(1) "Prosecutor" means a prosecuting attorney or a city director of law, village solicitor, or similar chief legal officer of a municipal corporation who has authority to prosecute a criminal case that is before the court or the criminal case in which a defendant in a criminal case has been found incompetent to stand trial or not guilty by reason of insanity.

(2) "Examiner" means either of the following:

(a) A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I) of section 5122.01 of the Revised Code or is employed by a certified forensic center designated by the department of mental health

and addiction services to conduct examinations or evaluations.

(b) For purposes of a separate intellectual disability evaluation that is ordered by a court pursuant to division ~~(H)~~(I) of section 2945.371 of the Revised Code, a psychologist designated by the director of developmental disabilities pursuant to that section to conduct that separate intellectual disability evaluation.

(3) "Nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional release, that is granted to a person who is found incompetent to stand trial and is committed pursuant to section 2945.39 of the Revised Code or to a person who is found not guilty by reason of insanity and is committed pursuant to section 2945.40 of the Revised Code.

(4) "Unsupervised, off-grounds movement" includes only off-grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis.

(5) "Trial visit" means a patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times.

(6) "Conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitalization or reinstitutionalization of the person as described in division (A) of section 2945.402 of the Revised Code and pursuant to which a person who is found incompetent to stand trial or a person who is found not guilty by reason of insanity lives and receives treatment in the community for a period of time that does not exceed the maximum prison term or term of imprisonment that the person could have received for the offense in question had the person been convicted of the offense instead of being found incompetent to stand trial on the charge of the offense or being found not guilty by reason of insanity relative to the offense.

(7) "Licensed clinical psychologist," "mentally ill person subject to court order," and "psychiatrist" have the same meanings as in section 5122.01 of the Revised Code.

(8) "Person with an intellectual disability subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.

(B) In a criminal action in a court of common pleas, a county court, or a municipal court, the court, prosecutor, or defense may raise the issue of the defendant's competence to stand trial. If the issue is raised before the trial has commenced, the court shall hold a hearing on the issue as provided in this section. If the issue is raised after the trial has commenced, the court shall hold a hearing on the issue only for good cause shown or on the court's own

motion.

(C) The court shall conduct the hearing required or authorized under division (B) of this section within thirty days after the issue is raised, unless the defendant has been referred for evaluation in which case the court shall conduct the hearing within ten days after the filing of the report of the evaluation or, in the case of a defendant who is ordered by the court pursuant to division ~~(H)~~(I) of section 2945.371 of the Revised Code to undergo a separate intellectual disability evaluation conducted by a psychologist designated by the director of developmental disabilities, within ten days after the filing of the report of the separate intellectual disability evaluation under that division. A hearing may be continued for good cause.

(D) The defendant shall be represented by counsel at the hearing conducted under division (C) of this section. If the defendant is unable to obtain counsel, the court shall appoint counsel under Chapter 120. of the Revised Code or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code before proceeding with the hearing.

(E) The prosecutor and defense counsel may submit evidence on the issue of the defendant's competence to stand trial. A written report of the evaluation of the defendant may be admitted into evidence at the hearing by stipulation, but, if either the prosecution or defense objects to its admission, the report may be admitted under sections 2317.36 to 2317.38 of the Revised Code or any other applicable statute or rule.

(F) The court shall not find a defendant incompetent to stand trial solely because the defendant is receiving or has received treatment as a voluntary or involuntary mentally ill patient under Chapter 5122. or a voluntary or involuntary resident with an intellectual disability under Chapter 5123. of the Revised Code or because the defendant is receiving or has received psychotropic drugs or other medication, even if the defendant might become incompetent to stand trial without the drugs or medication.

(G) A defendant is presumed to be competent to stand trial. If, after a hearing, the court finds by a preponderance of the evidence that, because of the defendant's present mental condition, the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the court shall find the defendant incompetent to stand trial and shall enter an order authorized by section 2945.38 of the Revised Code.

(H) Municipal courts shall follow the procedures set forth in sections 2945.37 to 2945.402 of the Revised Code. Except as provided in section 2945.371 of the Revised Code, a municipal court shall not order an evaluation of the defendant's competence to stand trial or the defendant's mental condition at the time of the commission of the offense to be conducted at any

hospital operated by the department of mental health and addiction services. Those evaluations shall be performed through community resources including, but not limited to, certified forensic centers, court probation departments, and community mental health services providers. All expenses of the evaluations shall be borne by the legislative authority of the municipal court, as defined in section 1901.03 of the Revised Code, and shall be taxed as costs in the case. If a defendant is found incompetent to stand trial or not guilty by reason of insanity, a municipal court may commit the defendant as provided in sections 2945.38 to 2945.402 of the Revised Code.

Sec. 2945.371. (A) If the issue of a defendant's competence to stand trial is raised or if a defendant enters a plea of not guilty by reason of insanity, the court may order one or more evaluations of the defendant's present mental condition or, in the case of a plea of not guilty by reason of insanity, of the defendant's mental condition at the time of the offense charged. An examiner shall conduct the evaluation and the evaluation may be conducted through electronic means.

(B) If the court orders more than one evaluation under division (A) of this section, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations. If a defendant enters a plea of not guilty by reason of insanity and if the court does not designate an examiner recommended by the defendant, the court shall inform the defendant that the defendant may have independent expert evaluation and that, if the defendant is unable to obtain independent expert evaluation, it will be obtained for the defendant at public expense if the defendant is indigent.

(C)(1) If the court orders an evaluation under division (A) of this section, the defendant shall be available at the times and places established by the examiners who are to conduct the evaluation. The court may order a defendant who has been released on bail or recognizance to submit to an evaluation under this section. ~~If~~

(2) If a defendant who has been released on bail or recognizance refuses to submit to a complete evaluation, the court may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and, except as provided in division (E) of this section, deliver the defendant to a center, program, or facility operated or certified by the department of mental health and addiction services or the department of developmental disabilities where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days.

(D)(1) A defendant who has not been released on bail or recognizance may be evaluated at the defendant's place of detention. ~~Upon~~

(2) Upon the request of the examiner, the court may order the sheriff to transport the defendant to a program or facility operated or certified by the department of mental health and addiction services or the department of

developmental disabilities, where the defendant may be held for evaluation for a reasonable period of time not to exceed twenty days, and to return the defendant to the place of detention after the evaluation. A municipal court may make an order under this division only upon the request of a certified forensic center examiner.

(E) Except as provided in division (D) of this section, the court shall not order a defendant to be held for evaluation in a center, program, or facility operated by the department of mental health and addiction services or the department of developmental disabilities unless the defendant is charged with a felony or an offense of violence or unless the court determines, based on facts before the court, that the defendant is in need of immediate hospitalization.

(F) If a court orders the evaluation to determine a defendant's mental condition at the time of the offense charged, the court shall inform the examiner of the offense with which the defendant is charged.

~~(F)~~(G) In conducting an evaluation of a defendant's mental condition at the time of the offense charged, the examiner shall consider all relevant evidence and may conduct the evaluation through electronic means. If the offense charged involves the use of force against another person, the relevant evidence to be considered includes, but is not limited to, any evidence that the defendant suffered, at the time of the commission of the offense, from the "battered woman syndrome."

~~(G)~~(H) The examiner shall file a written report with the court, under seal, within thirty days after entry of a court order for evaluation, ~~and the~~ The court shall provide copies of the report to the prosecutor and defense counsel and shall allow for inspection of the report by the defendant, the defendant's guardian, a probate court, a board of alcohol, drug addiction, and mental health services, and any mental health professional who performs a subsequent mental health evaluation of the defendant or who is involved in the treatment of the defendant, but the report shall not be open to public inspection. A person who is not among those permitted to inspect the report as described in this division may file a motion with the court seeking disclosure for good cause. When a motion for disclosure of a report is filed, the court shall notify the defendant of the pending motion and allow sufficient time for the defendant to object to the disclosure. If the defendant objects to the disclosure, the court shall schedule a hearing to determine whether the party seeking access has demonstrated that access to the report is necessary for treatment of the defendant or for a criminal adjudication of the defendant for which the report was originally created. At that time the defendant shall be allowed an opportunity to provide the court with grounds for the objection. The court shall not provide access to the report unless the party seeking access can demonstrate that access to the report is necessary for treatment of the defendant or for a criminal adjudication of the defendant for which the report

was originally created.

A defendant who is the subject of an examiner's report under this section prior to the effective date of this amendment may file a motion with the court to have that report placed under seal. Upon such a motion, the court shall place the report under seal, subject to the access and disclosure provisions provided in this section for reports filed after the effective date.

The report shall include all of the following:

(1) The examiner's findings;
(2) The facts in reasonable detail on which the findings are based;
(3) If the evaluation was ordered to determine the defendant's competence to stand trial, all of the following findings or recommendations that are applicable:

(a) Whether the defendant is capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense;

(b) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, whether the defendant presently is mentally ill or has an intellectual disability and, if the examiner's opinion is that the defendant presently has an intellectual disability, whether the defendant appears to be a person with an intellectual disability subject to institutionalization by court order;

(c) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense, the examiner's opinion as to the likelihood of the defendant becoming capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense within one year if the defendant is provided with a course of treatment;

(d) If the examiner's opinion is that the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that the defendant presently is mentally ill or has an intellectual disability, the examiner's recommendation as to the least restrictive placement or commitment alternative, including consideration of housing needs and the availability of mental health treatment in the community, consistent with the defendant's treatment needs for restoration to competency and with the safety of the community.

(4) If the evaluation was ordered to determine the defendant's mental condition at the time of the offense charged, the examiner's findings as to whether the defendant, at the time of the offense charged, did not know, as a

result of a severe mental disease or defect, the wrongfulness of the defendant's acts charged.

~~(H)-(I)~~ If the examiner's report filed under division ~~(G)-(H)~~ of this section indicates that in the examiner's opinion the defendant is incapable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense and that in the examiner's opinion the defendant appears to be a person with an intellectual disability subject to institutionalization by court order, the court shall order the defendant to undergo a separate intellectual disability evaluation conducted by a psychologist designated by the director of developmental disabilities. Divisions (C) to ~~(F)-(G)~~ of this section apply in relation to a separate intellectual disability evaluation conducted under this division. The psychologist appointed under this division to conduct the separate intellectual disability evaluation shall file a written report with the court within thirty days after the entry of the court order requiring the separate intellectual disability evaluation, ~~and the court.~~ The court shall file the report under seal in the same manner as a report submitted by an examiner under division (H) of this section and shall provide copies of the report to the prosecutor and defense counsel. The report shall include all of the information described in divisions ~~(G)-(I)-(H)(1)~~ (1) to (4) of this section. If the court orders a separate intellectual disability evaluation of a defendant under this division, the court shall not conduct a hearing under divisions (B) to (H) of section 2945.37 of the Revised Code regarding that defendant until a report of the separate intellectual disability evaluation conducted under this division has been filed. Upon the filing of that report, the court shall conduct the hearing within the period of time specified in division (C) of section 2945.37 of the Revised Code.

~~(H)-(J)~~ An examiner appointed under divisions (A) and (B) of this section or under division ~~(H)-(I)~~ of this section to evaluate a defendant to determine the defendant's competence to stand trial also may be appointed to evaluate a defendant who has entered a plea of not guilty by reason of insanity, but an examiner of that nature shall prepare separate reports on the issue of competence to stand trial and the defense of not guilty by reason of insanity.

~~(J)-(K)~~ No statement that a defendant makes in an evaluation or hearing under divisions (A) to ~~(H)-(I)~~ of this section relating to the defendant's competence to stand trial or to the defendant's mental condition at the time of the offense charged shall be used against the defendant on the issue of guilt in any criminal action or proceeding, but, in a criminal action or proceeding, the prosecutor or defense counsel may call as a witness any person who evaluated the defendant or prepared a report pursuant to a referral under this section. Neither the appointment nor the testimony of an examiner appointed under this section precludes the prosecutor or defense counsel from calling other

witnesses or presenting other evidence on competency or insanity issues.

~~(K)-(L)~~ Persons appointed as examiners under divisions (A) and (B) of this section or under division ~~(H)-(I)~~ of this section shall be paid a reasonable amount for their services and expenses, as certified by the court. The certified amount shall be paid by the county in the case of county courts and courts of common pleas and by the legislative authority, as defined in section 1901.03 of the Revised Code, in the case of municipal courts.

Sec. 2945.38. (A) If the issue of a defendant's competence to stand trial is raised and if the court, upon conducting the hearing provided for in section 2945.37 of the Revised Code, finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law. If the court finds the defendant competent to stand trial and the defendant is receiving psychotropic drugs or other medication, the court may authorize the continued administration of the drugs or medication or other appropriate treatment in order to maintain the defendant's competence to stand trial, unless the defendant's attending physician advises the court against continuation of the drugs, other medication, or treatment.

(B)(1)(a)(i) If the defendant has been charged with a felony offense or a misdemeanor offense of violence for which the prosecutor has not recommended the procedures under division (B)(1)(a)(vi) of this section and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial and that there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order the defendant to undergo treatment.

(ii) If the defendant has been charged with a felony offense and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment, the court shall order continuing evaluation and treatment of the defendant for a period not to exceed four months to determine whether there is a substantial probability that the defendant will become competent to stand trial within one year if the defendant is provided with a course of treatment.

(iii) If the defendant has not been charged with a felony offense but has been charged with a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within the time frame permitted under division (C)(1) of this section, the court may order continuing

evaluation and treatment of the defendant for a period not to exceed the maximum period permitted under that division.

(iv) If the defendant has not been charged with a felony offense or a misdemeanor offense of violence, but has been charged with a misdemeanor offense that is not a misdemeanor offense of violence and if, after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, but the court is unable at that time to determine whether there is a substantial probability that the defendant will become competent to stand trial within the time frame permitted under division (C)(1) of this section, the court shall dismiss the charges and follow the process outlined in division (B)(1)(a)(v)(I) of this section.

(v) If the defendant has not been charged with a felony offense or a misdemeanor offense of violence, or if the defendant has been charged with a misdemeanor offense of violence and the prosecutor has recommended the procedures under division (B)(1)(a)(vi) of this section, and if, after taking into consideration all relevant reports, information, and other evidence, the trial court finds that the defendant is incompetent to stand trial, the trial court shall do one of the following:

(I) Dismiss the charges pending against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. Upon dismissal of the charges, the trial court shall discharge the defendant unless the court or prosecutor, after consideration of the requirements of section 5122.11 of the Revised Code, files an affidavit in probate court alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order. If an affidavit is filed in probate court, the trial court may detain the defendant for ten days pending a hearing in the probate court and shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code. The trial court or prosecutor shall specify in the appropriate space on the affidavit that the defendant is a person described in this subdivision.

(II) Order the defendant to undergo outpatient competency restoration treatment at a facility operated or certified by the department of mental health and addiction services as being qualified to treat mental illness, at a public or community mental health facility, or in the care of a psychiatrist or other mental health professional. If a defendant who has been released on bail or recognizance refuses to comply with court-ordered outpatient treatment under this division, the court may dismiss the charges pending against the defendant and proceed under division (B)(1)(a)(v)(I) of this section or may amend the conditions of bail or recognizance and order the sheriff to take the defendant into custody and deliver the defendant to a

center, program, or facility operated or certified by the department of mental health and addiction services for treatment.

(vi) If the defendant has not been charged with a felony offense but has been charged with a misdemeanor offense of violence and after taking into consideration all relevant reports, information, and other evidence, the court finds that the defendant is incompetent to stand trial, the prosecutor in the case may recommend that the court follow the procedures prescribed in division (B)(1)(a)(v) of this section. If the prosecutor does not make such a recommendation, the court shall follow the procedures in division (B)(1)(a)(i) of this section.

(b) The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require mental health treatment or continuing evaluation and treatment, either shall be committed to the department of mental health and addiction services for treatment or continuing evaluation and treatment at a hospital, facility, or agency, as determined to be clinically appropriate by the department of mental health and addiction services or shall be committed to a facility certified by the department of mental health and addiction services as being qualified to treat mental illness, to a public or community mental health facility, or to a psychiatrist or another mental health professional for treatment or continuing evaluation and treatment. Prior to placing the defendant, the department of mental health and addiction services shall obtain court approval for that placement following a hearing. The court order for the defendant to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall specify that the defendant, if determined to require treatment or continuing evaluation and treatment for an intellectual disability, shall receive treatment or continuing evaluation and treatment at an institution or facility operated by the department of developmental disabilities, at a facility certified by the department of developmental disabilities as being qualified to treat intellectual disabilities, at a public or private intellectual disabilities facility, or by a psychiatrist or another intellectual disabilities professional. In any case, the order may restrict the defendant's freedom of movement as the court considers necessary. The prosecutor in the defendant's case shall send to the chief clinical officer of the hospital, facility, or agency where the defendant is placed by the department of mental health and addiction services, or to the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed, copies of relevant police reports and other background information that pertains to the defendant and is available to the prosecutor unless the prosecutor determines that the release of any of the information in the police reports or any of the other background information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm

to any person.

In determining the place of commitment, the court shall consider the extent to which the person is a danger to the person and to others, the need for security, the availability of housing and supportive services, including outpatient mental health services in the community, and the type of crime involved and shall order the least restrictive alternative available that is consistent with public safety and treatment goals. In weighing these factors, the court shall give preference to protecting public safety and the availability of housing and supportive services.

(c) If the defendant is found incompetent to stand trial, if the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment under division (B)(1)(b) of this section determines that medication is necessary to restore the defendant's competency to stand trial, and if the defendant lacks the capacity to give informed consent or refuses medication, the chief clinical officer of the hospital, facility, or agency where the defendant is placed, or the managing officer of the institution, the director of the program or facility, or the person to which the defendant is committed for treatment or continuing evaluation and treatment may petition the court for authorization for the involuntary administration of medication. The court shall hold a hearing on the petition within five days of the filing of the petition if the petition was filed in a municipal court or a county court regarding an incompetent defendant charged with a misdemeanor or within ten days of the filing of the petition if the petition was filed in a court of common pleas regarding an incompetent defendant charged with a felony offense. Following the hearing, the court may authorize the involuntary administration of medication or may dismiss the petition.

(2) If the court finds that the defendant is incompetent to stand trial and that, even if the defendant is provided with a course of treatment, there is not a substantial probability that the defendant will become competent to stand trial within one year, the court shall order the discharge of the defendant, unless upon motion of the prosecutor or on its own motion, the court either seeks to retain jurisdiction over the defendant pursuant to section 2945.39 of the Revised Code or files an affidavit in the probate court for the civil commitment of the defendant pursuant to Chapter 5122. or 5123. of the Revised Code alleging that the defendant is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order. If an affidavit is filed in the probate court, the trial court shall send to the probate court copies of all written reports of the defendant's mental condition that were prepared pursuant to section 2945.371 of the Revised Code.

The trial court may issue the temporary order of detention that a

probate court may issue under section 5122.11 or 5123.71 of the Revised Code, to remain in effect until the probable cause or initial hearing in the probate court. Further proceedings in the probate court are civil proceedings governed by Chapter 5122. or 5123. of the Revised Code.

(C) No defendant shall be required to undergo treatment, including any continuing evaluation and treatment, under division (B)(1) of this section for longer than whichever of the following periods is applicable:

(1) One year, if the most serious offense with which the defendant is charged is one of the following offenses:

(a) Aggravated murder, murder, or an offense of violence for which a sentence of death or life imprisonment may be imposed;

(b) An offense of violence that is a felony of the first or second degree;

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree.

(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section;

(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree;

(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor.

(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code.

(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health and addiction services or is committed to an institution or facility for the treatment of intellectual disabilities shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. The court may grant a defendant supervised off-grounds movement to obtain medical treatment or specialized habilitation treatment services if the person who supervises the treatment or the continuing evaluation and treatment of the defendant ordered under division (B)(1)(a) of this section informs the court that the treatment or continuing evaluation and treatment cannot be provided at the hospital or facility where the defendant is placed by the

department of mental health and addiction services or the institution or facility to which the defendant is committed. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health and addiction services or the managing officer of the institution or director of the facility to which the defendant is committed, or a designee of any of those persons, may grant a defendant movement to a medical facility for an emergency medical situation with appropriate supervision to ensure the safety of the defendant, staff, and community during that emergency medical situation. The chief clinical officer of the hospital or facility where the defendant is placed by the department of mental health and addiction services or the managing officer of the institution or director of the facility to which the defendant is committed shall notify the court within twenty-four hours of the defendant's movement to the medical facility for an emergency medical situation under this division.

(F) The person who supervises the treatment or continuing evaluation and treatment of a defendant ordered to undergo treatment or continuing evaluation and treatment under division (B)(1)(a) of this section shall file a written report with the court at the following times:

(1) Whenever the person believes the defendant is capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense;

(2) For a felony offense, fourteen days before expiration of the maximum time for treatment as specified in division (C) of this section and fourteen days before the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, and, for a misdemeanor offense, ten days before the expiration of the maximum time for treatment, as specified in division (C) of this section;

(3) At a minimum, after each six months of treatment;

(4) Whenever the person who supervises the treatment or continuing evaluation and treatment of a defendant ordered under division (B)(1)(a) of this section believes that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment.

(G) A report under division (F) of this section shall contain the examiner's findings, the facts in reasonable detail on which the findings are based, and the examiner's opinion as to the defendant's capability of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense. If, in the examiner's opinion, the defendant remains incapable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense and there is a substantial probability that the defendant

will become capable of understanding the nature and objective of the proceedings against the defendant and of assisting in the defendant's defense if the defendant is provided with a course of treatment, if in the examiner's opinion the defendant remains mentally ill or continues to have an intellectual disability, and if the maximum time for treatment as specified in division (C) of this section has not expired, the report also shall contain the examiner's recommendation as to the least restrictive placement or commitment alternative that is consistent with the defendant's treatment needs for restoration to competency and with the safety of the community. The court shall provide copies of the report to the prosecutor and defense counsel.

(H) If a defendant is committed pursuant to division (B)(1) of this section, within ten days after the treating physician of the defendant or the examiner of the defendant who is employed or retained by the treating facility advises that there is not a substantial probability that the defendant will become capable of understanding the nature and objective of the proceedings against the defendant or of assisting in the defendant's defense even if the defendant is provided with a course of treatment, within ten days after the expiration of the maximum time for treatment as specified in division (C) of this section, within ten days after the expiration of the maximum time for continuing evaluation and treatment as specified in division (B)(1)(a) of this section, within thirty days after a defendant's request for a hearing that is made after six months of treatment, or within thirty days after being advised by the treating physician or examiner that the defendant is competent to stand trial, whichever is the earliest, the court shall conduct another hearing to determine if the defendant is competent to stand trial and shall do whichever of the following is applicable:

(1) If the court finds that the defendant is competent to stand trial, the defendant shall be proceeded against as provided by law.

(2) If the court finds that the defendant is incompetent to stand trial, but that there is a substantial probability that the defendant will become competent to stand trial if the defendant is provided with a course of treatment, and the maximum time for treatment as specified in division (C) of this section has not expired, the court, after consideration of the examiner's recommendation, shall order that treatment be continued, may change the facility or program at which the treatment is to be continued, and shall specify whether the treatment is to be continued at the same or a different facility or program.

(3) If the court finds that the defendant is incompetent to stand trial, if the defendant is charged with an offense listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired,

further proceedings shall be as provided in sections 2945.39, 2945.401, and 2945.402 of the Revised Code.

(4) If the court finds that the defendant is incompetent to stand trial, if the most serious offense with which the defendant is charged is a misdemeanor or a felony other than a felony listed in division (C)(1) of this section, and if the court finds that there is not a substantial probability that the defendant will become competent to stand trial even if the defendant is provided with a course of treatment, or if the maximum time for treatment relative to that offense as specified in division (C) of this section has expired, the court shall dismiss the indictment, information, or complaint against the defendant. A dismissal under this division is not a bar to further prosecution based on the same conduct. The court shall discharge the defendant unless the court or prosecutor files an affidavit in probate court for civil commitment pursuant to Chapter 5122. or 5123. of the Revised Code. If an affidavit for civil commitment is filed, the court may detain the defendant for ten days pending civil commitment- and shall send to the probate court copies of all written reports of the defendant's mental condition prepared pursuant to section 2945.371 of the Revised Code.

All of the following provisions apply to persons charged with a misdemeanor or a felony other than a felony listed in division (C)(1) of this section who are committed by the probate court subsequent to the court's or prosecutor's filing of an affidavit for civil commitment under authority of this division:

(a) The chief clinical officer of the entity, hospital, or facility, the managing officer of the institution, the director of the program, or the person to which the defendant is committed or admitted shall do all of the following:

(i) Notify the prosecutor, in writing, of the discharge of the defendant, send the notice at least ten days prior to the discharge unless the discharge is by the probate court, and state in the notice the date on which the defendant will be discharged;

(ii) Notify the prosecutor, in writing, when the defendant is absent without leave or is granted unsupervised, off-grounds movement, and send this notice promptly after the discovery of the absence without leave or prior to the granting of the unsupervised, off-grounds movement, whichever is applicable;

(iii) Notify the prosecutor, in writing, of the change of the defendant's commitment or admission to voluntary status, send the notice promptly upon learning of the change to voluntary status, and state in the notice the date on which the defendant was committed or admitted on a voluntary status.

(b) Upon receiving notice that the defendant will be granted unsupervised, off-grounds movement, the prosecutor either shall re-indict the defendant or promptly notify the court that the prosecutor does not intend to

prosecute the charges against the defendant.

(I) If a defendant is convicted of a crime and sentenced to a jail or workhouse, the defendant's sentence shall be reduced by the total number of days the defendant is confined for evaluation to determine the defendant's competence to stand trial or treatment under this section and sections 2945.37 and 2945.371 of the Revised Code or by the total number of days the defendant is confined for evaluation to determine the defendant's mental condition at the time of the offense charged.

Sec. 5122.02. (A) Except as provided in division (D) of this section, any person who is eighteen years of age or older and who is, appears to be, or believes self to be mentally ill may make written application for voluntary admission to the chief medical officer of a hospital.

(B) Except as provided in division (D) of this section, the application also may be made on behalf of a minor by a parent, a guardian of the person, or the person with custody of the minor, and on behalf of an adult incompetent person by the guardian or the person with custody of the incompetent person.

Any person whose admission is applied for under division (A) or (B) of this section may be admitted for observation, diagnosis, care, or treatment, in any hospital unless the chief clinical officer finds that hospitalization is inappropriate, and except that, in the case of a public hospital, no person shall be admitted without the authorization of the board of the person's county of residence.

(C) If a minor or person adjudicated incompetent due to mental illness whose voluntary admission is applied for under division (B) of this section is admitted, the court shall determine, upon petition by private or otherwise appointed counsel, a relative, or one acting as next friend, whether the admission or continued hospitalization is in the best interest of the minor or incompetent.

The chief clinical officer shall discharge any voluntary patient who has recovered or whose hospitalization the officer determines to be no longer advisable ~~and may discharge any voluntary patient who refuses to accept treatment consistent with the written treatment plan required by section 5122.27 of the Revised Code.~~ In the case of a voluntary patient who refuses to accept treatment consistent with the written treatment plan required by section 5122.27 of the Revised Code, the chief clinical officer may file an affidavit under section 5122.11 of the Revised Code. If the chief clinical officer decides not to file such an affidavit and to, instead, discharge the patient, and a trial court or prosecutor had, within the past twelve months, filed an affidavit in probate court pursuant to division (B)(1)(a)(v)(I) of section 2945.38 of the Revised Code relating to the patient, the chief clinical officer, to the extent that the chief clinical officer has knowledge of the patient's prior

status, shall immediately notify such trial court or prosecutor of the intent to discharge. Not later than three court days after being notified of the intent to discharge, the trial court or prosecutor may file or cause to be filed with the court of the county where the patient is hospitalized, or the court of the county where the patient resides, an affidavit under section 5122.11 of the Revised Code. If such an affidavit is filed, the patient's discharge must be postponed until a hearing under section 5122.141 of the Revised Code is held.

(D) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily admit the person or be voluntarily admitted to a hospital pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

Sec. 5122.03. A patient admitted under section 5122.02 of the Revised Code who requests release in writing, or whose release is requested in writing by the patient's counsel, legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except ~~that~~ when any of the following is the case:

(A) The patient was admitted on the patient's own application and the request for release is made by a person other than the patient, release may be conditional upon the agreement of the patient; ~~or~~.

(B) The patient was, within the past twelve months, a defendant described in division (B)(1)(a)(v)(I) of section 2945.38 of the Revised Code and the chief clinical officer of the hospital decides not to file or cause to be filed an affidavit under section 5122.11 of the Revised Code as described in division (C) of this section. In that circumstance, the chief clinical officer shall immediately notify the trial court or prosecutor described in division (B)(1)(a)(v)(I) of section 2945.38 of the Revised Code of the chief clinical officer's decision and intent to release the patient. Not later than three court days after being notified of the intent to release, the trial court or prosecutor may file or cause to be filed with the court of the county where the patient is hospitalized, or the court of the county where the patient resides, an affidavit under section 5122.11 of the Revised Code. If such an affidavit is filed, the patient's release must be postponed until a hearing under section 5122.141 of the Revised Code is held.

(C) The chief clinical officer of the hospital, within three court days from the receipt of the request for release, files or causes to be filed with the court of the county where the patient is hospitalized or of the county where the patient is a resident, an affidavit under section 5122.11 of the Revised Code. Release may be postponed until the hearing held under section 5122.141 of the Revised Code. A telephone communication within three court days from the receipt of the request for release from the chief clinical officer

to the court, indicating that the required affidavit has been mailed, is sufficient compliance with the time limit for filing such affidavit.

Unless the patient is released within three days from the receipt of the request by the chief clinical officer, the request shall serve as a request for an initial hearing under section 5122.141 of the Revised Code. If the court finds that the patient is a mentally ill person subject to court order, all provisions of this chapter with respect to involuntary hospitalization apply to such person.

Judicial proceedings for hospitalization shall not be commenced with respect to a voluntary patient except pursuant to this section.

Sections 5121.30 to 5121.56 of the Revised Code apply to persons received in a hospital operated by the department of mental health and addiction services on a voluntary application.

The chief clinical officer of the hospital shall provide reasonable means and arrangements for informing patients of their rights to release as provided in this section and for assisting them in making and presenting requests for release or for a hearing under section 5122.141 of the Revised Code.

Before a patient is released from a public hospital, the chief clinical officer shall, when possible, notify the board of the patient's county of residence of the patient's pending release after the chief clinical officer has informed the patient that the board will be so notified.

Sec. 5122.11. Proceedings for a mentally ill person subject to court order pursuant to sections 5122.11 to 5122.15 of the Revised Code shall be commenced by the filing of an affidavit in the manner prescribed by the department of mental health and addiction services and in a form prescribed in section 5122.111 of the Revised Code, by any person or persons with the probate court, either on reliable information or actual knowledge, whichever is determined to be proper by the court. This section does not apply to the hospitalization of a person pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

The affidavit shall contain an allegation setting forth the specific category or categories under division (B) of section 5122.01 of the Revised Code upon which the jurisdiction of the court is based and a statement of alleged facts sufficient to indicate probable cause to believe that the person is a mentally ill person subject to court order. The affidavit may be accompanied, or the court may require that the affidavit be accompanied, by a certificate of a psychiatrist, or a certificate signed by a licensed clinical psychologist and a certificate signed by a licensed physician stating that the person who issued the certificate has examined the person and is of the opinion that the person is a mentally ill person subject to court order, or shall be accompanied by a written statement by the applicant, under oath, that the person has refused to submit to an examination by a psychiatrist, or by a

licensed clinical psychologist and licensed physician.

Upon ~~With regard to a defendant described in division (B)(1)(a)(v)(I) of section 2945.38 of the Revised Code for whom criminal charges were dismissed, the affidavit shall contain a space for the trial court or prosecutor filing the affidavit to indicate that the person named in the affidavit is such a defendant.~~

Upon receipt of the affidavit, if a judge of the court or a referee who is an attorney at law appointed by the court has probable cause to believe that the person named in the affidavit is a mentally ill person subject to court order, the judge or referee may issue a temporary order of detention ordering any health or police officer or sheriff to take into custody and transport the person to a hospital or other place designated in section 5122.17 of the Revised Code, or may set the matter for further hearing. If a temporary order of detention is issued and the person is transported to a hospital or other designated place, the court that issued the order shall retain jurisdiction over the case as it relates to the person's outpatient treatment, notwithstanding that the hospital or other designated place to which the person is transported is outside the territorial jurisdiction of the court.

The person may be observed and treated until the hearing provided for in section 5122.141 of the Revised Code. If no such hearing is held, the person may be observed and treated until the hearing provided for in section 5122.15 of the Revised Code.

Sec. 5122.111. To initiate proceedings for court-ordered treatment of a person under section 5122.11 of the Revised Code, a person or persons shall file an affidavit with the probate court that is identical in form and content to the following:

AFFIDAVIT OF MENTAL ILLNESS

The State of Ohio

_____ County, ss.

_____ Court

_____ the undersigned, residing at

_____ says, that he/she has information to believe or has actual knowledge that

_____ (Please specify specific category(ies) below with an X.)

Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

[] Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm or other evidence of present dangerousness;

[] Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence of being unable to provide for and of not providing for basic physical needs because of mental illness and that appropriate provision for such needs cannot be made immediately available in the community;

[] Would benefit from treatment for mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person; or

[] Would benefit from treatment as manifested by evidence of behavior that indicates all of the following:

(a) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.

(b) The person has a history of lack of compliance with treatment for mental illness and one of the following applies:

(i) At least twice within the thirty-six months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the thirty-six-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the thirty-six-month period.

(ii) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the forty-eight-month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight-month period.

(c) The person, as a result of mental illness, is unlikely to voluntarily participate in necessary treatment.

(d) In view of the person's treatment history and current behavior, the person is in need of treatment in order to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.

(Name of the party filing the affidavit) further says that the facts supporting this belief are as follows:

These facts being sufficient to indicate probable cause that the above said person is a mentally ill person subject to court order.

~~Name~~ The undersigned represents a trial court or a prosecutor who, as described in division (B)(1)(a)(v)(I) of section 2945.38 of the Revised Code, is alleging that the above said person is a mentally ill person subject to court order: Yes No (please specify answer with an X). If Yes, please specify the name and address of the trial court or prosecutor:

Name of Patient's Last Physician or Licensed Clinical Psychologist

Address of Patient's Last Physician or Licensed Clinical Psychologist

The name and address of respondent's legal guardian, spouse, and adult next of kin are:

	Name	Kinship	Address	Legal
Guardian	_____	_____	_____	_____
	Spouse		_____	
	_____	Adult Next of Kin	_____	
of Kin	_____	_____	_____	Adult Next

The following constitutes additional information that may be necessary for the purpose of determining residence:

Dated this _____ day of _____, 20__

Signature of the party filing

the affidavit

Sworn to before me and signed in my presence on the day and year above dated.

Signature of Probate Judge,
Public

Deputy Clerk, or Notary

WAIVER

I, the undersigned party filing the affidavit hereby waive the issuing and service of notice of the hearing on said affidavit, and voluntarily enter my appearance herein.

Dated this _____ day of _____, 20__

Signature of the party filing

the affidavit

Sec. 5122.112. A probate court that terminates jurisdiction over a defendant described in division (B)(1)(a)(v)(I) of section 2945.38 of the Revised Code, for whom a trial court or prosecutor initiated proceedings alleging that the defendant is a mentally ill person subject to court order pursuant to sections 5122.11 to 5122.15 of the Revised Code, shall immediately do both of the following:

(A) Notify the initiating court or prosecutor of the termination;

(B) Transmit to the initiating court a copy of any records in its possession that pertain to the defendant's mental illness or treatment for mental illness."

In line 2393, after "2717.01" insert ", 2945.37, 2945.371, 2945.38, 5122.02, 5122.03, 5122.11, 5122.111"

The question being, "Shall the amendment be agreed to?"

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 464**, pass?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson

Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Eklund moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Burke, Craig, Gavarone, Hackett, Hoagland, Hottinger, Huffman, M., Kunze, Lehner, O'Brien, Sykes, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Peterson moved that **Sub. H. B. No. 236**, having been informally passed, be brought up for consideration.

Sub. H. B. No. 236 - Representatives Smith, T., Plummer.

Cosponsors: Representatives Wiggam, Riedel, Kent, Romanchuk, Schaffer, Green, Sheehy, Jones, LaRe, Carruthers, DeVitis, Ghanbari, Greenspan, Grendell, Hambley, Koehler, Manning, D., Perales, Roemer, Scherer, Stein, Stoltzfus, Strahorn Senator Manning.

To amend sections 2903.11, 2903.12, 2903.13, and 2935.01 of the Revised Code to increase penalties for certain assault offenses if the victim is a hospital police officer or special police officer and to include gaming agents of the Casino Control Commission as peace officers under the general statutory definition of that term, was taken up.

The question being, "Shall the bill, **Sub. H. B. No. 236**, pass?"

Senator Johnson moved to amend as follows:

In line 1 of the title, delete ", and" and insert ", "

In line 2 of the title, after "2935.01" insert ", and 5502.63 and to enact section 9.71"

In line 5 of the title, delete "and" and insert ", "

In line 8 of the title, after "term" insert ", to generally bar public officials from prohibiting federally licensed firearms dealers in the state or a specified geographic area from the commercial sale or transfer of firearms or their components or ammunition, and to modify the definition of federally licensed firearms dealer"

In line 9, delete ", and" and insert ", "

In line 10, after "2935.01" insert ", and 5502.63 be amended and section 9.71"; delete "amended" and insert "enacted"

After line 10, insert:

"Sec. 9.71. (A) As used in this section:

(1) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.

(2) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(3) "Public official" means any elected or appointed officer, employee, or agent of the state or any political subdivision, board, commission, bureau, or other public body established by law.

(B) Notwithstanding any contrary provision of the Revised Code, subject to division (C) of this section, no public official shall issue an order that prohibits federally licensed firearms dealers in the state or in a geographic area of the state from engaging in the commercial sale, giving, furnishing, or transfer of firearms, firearm components, or ammunition for firearms. This division does not prohibit a public official from issuing an order, pursuant to the official's authority under the Revised Code or a local ordinance, that prohibits a particular federally licensed firearms dealer from engaging in the commercial sale, giving, furnishing, or transfer of firearms, firearm components, or ammunition for firearms.

(C) Division (B) of this section does not apply to either a zoning ordinance of the type described in division (D)(1) of section 9.68 of the Revised Code or a zoning ordinance of the type described in division (D)(2) of that section."

After line 539, insert:

"Sec. 5502.63. (A) The division of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The division shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

As used in this division, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices ~~or their~~ ammunition for destructive devices, firearms, or ammunition for firearms, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act.

(B)(1) The division of criminal justice services shall create a poster that provides information regarding the national human trafficking resource center hotline. The poster shall be no smaller than eight and one-half inches by eleven inches in size and shall include a statement in substantially the following form:

"If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the National Human Trafficking Resource

Center Hotline at 1-888-373-7888 to access help and services.

Victims of human trafficking are protected under U.S. and Ohio law.

The toll-free Hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a non-profit, non-governmental organization
- Anonymous & confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information."

The statement shall appear on each poster in English, Spanish, and, for each county, any other language required for voting materials in that county under section 1973aa-1a of the "Voting Rights Act of 1965," 79 Stat. 437, 42 U.S.C. 1973, as amended. In addition to the national human trafficking resource center hotline, the statement may contain any additional hotlines regarding human trafficking for access to help and services.

(2) The division shall make the poster available for print on its public web site and shall make the poster available to and encourage its display at each of the following places:

- (a) A highway truck stop;
 - (b) A hotel, as defined in section 3731.01 of the Revised Code;
 - (c) An adult entertainment establishment, as defined in section 2907.39 of the Revised Code;
 - (d) A beauty salon, as defined in section 4713.01 of the Revised Code;
 - (e) An agricultural labor camp, as defined in section 3733.41 of the Revised Code;
 - (f) A hospital or urgent care center;
 - (g) Any place where there is occurring a contest for the championship of a division, conference, or league of a professional athletic association or of a national collegiate athletic association division I intercollegiate sport or where there is occurring an athletic competition at which cash prizes are awarded to individuals or teams;
 - (h) Any establishment operating as a massage parlor, massage spa, alternative health clinic, or similar entity by persons who do not hold a valid license from the state medical board to practice massage therapy under Chapter 4731. of the Revised Code;
 - (i) A fair.
- (3) As used in this section:

(a) "Fair" means the annual exposition conducted by any county or independent agricultural society or the Ohio expositions commission.

(b) "Highway truck stop" means a gas station with a sign that is visible from a highway, as defined in section 5501.01 of the Revised Code, that offers amenities to commercial vehicles."

In line 541, delete ", and" and insert ", "; after "2935.01" insert ", and 5502.63"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted – yeas 22, nays 9, as follows:

Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Dolan	Eklund	Gavarone	Hackett
Hoagland	Hottinger	Huffman, M.	Huffman, S.
Johnson	Manning	McColley	O'Brien
Peterson	Roegner	Schaffer	Schuring
Wilson			Obhof-22

Those who voted in the negative were: Senators

Antonio	Craig	Fedor	Kunze
Lehner	Maharath	Sykes	Thomas
			Williams-9

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 236**, pass?"

The yeas and nays were taken and resulted – yeas 22, nays 9, as follows:

Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Dolan	Eklund	Gavarone	Hackett
Hoagland	Hottinger	Huffman, M.	Huffman, S.
Johnson	Manning	McColley	O'Brien
Peterson	Roegner	Schaffer	Schuring
Wilson			Obhof-22

Those who voted in the negative were: Senators

Antonio	Craig	Fedor	Kunze
Lehner	Maharath	Sykes	Thomas
			Williams-9

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Eklund moved to amend the title as follows:

Add the names: "Senators Brenner, Burke, Eklund, Gavarone, Hoagland, Huffman, M., Huffman, S., Johnson, McColley, Obhof, Roegner, Schaffer."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has refused to concur in the Senate amendments to:

Sub. H. B. No. 352-Representatives Cross, Lang – et al.

Attest:

Bradley J. Young,
Clerk.

Senator Peterson moved that the Senate recede from its amendments to **Sub. H. B. No. 352**.

The question being, "Shall the Senate recede from its amendments to **Sub. H. B. No. 352**?"

The yeas and nays were taken and resulted – yeas 30, nays 1, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Craig	Dolan	Eklund	Fedor
Gavarone	Hackett	Hoagland	Hottinger
Huffman, M.	Huffman, S.	Johnson	Kunze
Lehner	Maharath	Manning	McColley
O'Brien	Peterson	Roegner	Schaffer
Schuring	Sykes	Thomas	Williams
Wilson			Obhof-30

Senator Coley voted in the negative-1.

The Senate receded from its amendments to **Sub. H. B. No. 352**.

Senator Peterson moved that the Senate revert to the fourth order of business, being reports of conference committees

The motion was agreed to.

REPORTS OF CONFERENCE COMMITTEES

Senator Wilson submitted the following report:

The committee of conference to which the matters of difference between the two houses were referred on **Sub. H. B. No. 264**, Representative Wilkin and Representative O'Brien - et al., having had the same under consideration, recommends to the respective houses as follows:

The bill as passed by the Senate with the following amendments:

In line 1 of the title, delete "3706.49,"; delete the second ","; delete the second "and"

In line 2 of the title, delete "to enact sections 3706.491"; delete "and 3706.551"

In line 6 of the title, delete ", to waive certain"

Delete lines 7 through 11 of the title

In line 12 of the title, delete "nuclear resource and renewable energy credits" and insert "and to declare an emergency"

In line 13, delete "3706.49,"; delete ", and 6121.04 be"

In line 14, delete "amended and sections 3706.491"; delete "3706.551" and insert "6121.04"

In line 15, delete "enacted" and insert "amended"

Delete lines 16 through 56

In line 305, delete "3706.49,"; delete ", "

After line 306, insert:

"Section 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to allow government agencies to take advantage of historically low interest rates during the COVID-19 pandemic to refinance needed water development and waste water facility projects. Therefore, this act shall go into immediate effect."

Managers on the Part of the House of Representatives

Managers on the Part of the Senate

/S/ SHANE WILKIN
SHANE WILKIN

/S/ STEVE WILSON
STEVE WILSON

/S/ JAMES M. HOOPS
JAMES M. HOOPS

/S/ ROB MCCOLLEY
ROB MCCOLLEY

/S/ BRIGID KELLY
BRIGID KELLY

/S/ SEAN J. O'BRIEN
SEAN J. O'BRIEN

The question being, "Shall the emergency clause of the bill stand as part of the report?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the emergency clause stood as part of the report.

The question being, "Shall the report of the committee of conference be agreed to as an emergency?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

The report of the committee of conference was agreed to as an emergency measure.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 609-Representative West.

Cosponsors: Representatives Leland, Galonski, Smith, K., O'Brien, Sobecki, Crawley, Blair, Rogers, Clites, Crossman, Ingram, Lanese, Lightbody, Manning, G., Miller, J., Roemer. Senators Schuring, Roegner.

To amend sections 5709.09, 5713.08, 5715.27, and 5739.02 of the Revised Code to require the Tax Commissioner to administer a temporary amnesty program with respect to delinquent state-administered taxes and fees, to credit most collections to the Budget Stabilization Fund, to authorize property and sales and use tax exemptions, to modify property tax exemption procedures for community schools, to repeal Section 4 of this act on July 16, 2021, and to make an appropriation, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 609**, pass?"

Senator Schaffer moved to amend as follows:

In line 1 of the title, delete ", 5713.08, 5715.27,"

In line 8 of the title, delete "to modify property tax exemption"

In line 9 of the title, delete "procedures for community schools,"

In line 12, delete ", 5713.08, 5715.27,"

Delete lines 28 through 267

In line 1076, delete ", 5713.08,"

In line 1077, delete "5715.27,"

Delete lines 1081 through 1083

The question being, "Shall the amendment be agreed to?"

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 609**, pass?"

Senator Obhof moved to amend as follows:

In line 1 of the title, after "sections" insert "3701.13,"

In line 9 of the title, after "schools," insert "to amend the law related to orders of the Department of Health,"

In line 12, after "sections" insert "3701.13,"

After line 13, insert:

"Sec. 3701.13. (A)(1) The department of health shall have supervision of all matters relating to the preservation of the life and health of the people and have ultimate authority in matters of quarantine and isolation, which it may declare and enforce, when neither exists, and modify, relax, or abolish, when either has been established. The department may approve methods of immunization against the diseases specified in section 3313.671 of the Revised Code for the purpose of carrying out the provisions of that section and take such actions as are necessary to encourage vaccination against those diseases.

(2) The director shall not issue any statewide order or generally applicable order for preventing the spread of contagious or infectious diseases under this section that imposes different duties, obligations, requirements, or standards upon similarly situated businesses. For the purposes of this division, a business shall be considered a "similarly situated business" with any business that generally offers or sells the same products or services, or substantially the same mix of products or services.

(B) The department may make special or standing orders or rules for preventing the use of fluoroscopes for nonmedical purposes that emit doses of radiation likely to be harmful to any person, for preventing the spread of contagious or infectious diseases, for governing the receipt and conveyance of remains of deceased persons, and for such other sanitary matters as are best controlled by a general rule. Whenever possible, the department shall work in cooperation with the health commissioner of a general or city health district. The department may make and enforce orders in local matters or reassign substantive authority for mandatory programs from a general or city health district to another general or city health district when an emergency exists, or when the board of health of a general or city health district has neglected or refused to act with sufficient promptness or efficiency, or when such board has not been established as provided by sections 3709.02, 3709.03, 3709.05, 3709.06, 3709.11, 3709.12, and 3709.14 of the Revised Code. In such cases, the necessary expense incurred shall be paid by the general health district or city for which the services are rendered.

(C) The department of health may require general or city health districts to enter into agreements for shared services under section 9.482 of the Revised Code. The department shall prepare and offer to boards of health a model contract and memorandum of understanding that are easily adaptable for use by boards of health when entering into shared services agreements.

The department also may offer financial and other technical assistance to boards of health to encourage the sharing of services.

(D) As a condition precedent to receiving funding from the department of health, the director of health may require general or city health districts to apply for accreditation by July 1, 2018, and be accredited by July 1, 2020, by an accreditation body approved by the director. The director of health, by July 1, 2016, shall conduct an evaluation of general and city health district preparation for accreditation, including an evaluation of each district's reported public health quality indicators as provided for in section 3701.98 of the Revised Code.

(E) The department may make evaluative studies of the nutritional status of Ohio residents, and of the food and nutrition-related programs operating within the state. Every agency of the state, at the request of the department, shall provide information and otherwise assist in the execution of such studies."

In line 1076, after "sections" insert "3701.13,"

The question being, "Shall the amendment be agreed to?"

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 609**, pass?"

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Roegner moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Brenner, Burke, Coley, Craig, Dolan, Eklund, Gavarone, Hackett, Hoagland, Hottinger, Huffman, M., Huffman, S., Johnson, Kunze, Lehner, Manning, McColley, Obhof, O'Brien, Schaffer, Sykes, Thomas, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

On the motion of Senator Peterson, the Senate recessed until 9:15 p.m.

The Senate met pursuant to the recess.

BILLS FOR THIRD CONSIDERATION

Senator Peterson moved that **Sub. H. B. No. 421**, having been informally passed, be brought up for consideration.

Sub. H. B. No. 421 - Representatives Smith, T., Blair.

Cosponsors: Representatives Carruthers, Becker, Seitz, Abrams, O'Brien, Hambley, Galonski, Hillyer, Clites, Crossman, Ghanbari, Ingram, Miller, J., Rogers.

To amend sections 2744.01, 2744.05, and 4973.17 of the Revised Code to provide a municipal corporation or county immunity from civil and criminal liability in any action that arises from a hospital police officer acting directly in the discharge of the person's duties as a police officer and that occurs on the premises of the hospital or its affiliates or subsidiaries or elsewhere in the municipal corporation or county and to modify the definition of "emergency call.", was taken up.

The question being, "Shall the bill, **Sub. H. B. No. 421**, pass?"

Senator Coley moved to amend as follows:

In line 1 of the title, after "sections" insert "109.78,"

In line 10 of the title, delete "and" and insert ","

In line 11 of the title, delete "." and insert ","; after """" insert "and to expressly exempt, from a requirement that peace officer basic training be obtained, certain employees that a board of education or governing body of a school authorizes to go armed in a school safety zone within which the board or governing body has authority."

In line 12, after "sections" insert "109.78,"

After line 13, insert:

"Sec. 109.78. (A) The executive director of the Ohio peace officer training commission, on behalf of the commission and in accordance with rules promulgated by the attorney general, shall certify persons who have satisfactorily completed approved training programs designed to qualify persons for positions as special police, security guards, or persons otherwise privately employed in a police capacity and issue appropriate certificates to such persons. Application for approval of a training program designed to qualify persons for such positions shall be made to the commission. An application for approval shall be submitted to the commission with a fee of one hundred twenty-five dollars, which fee shall be refunded if the application is denied. Such programs shall cover only duties and jurisdiction of such security guards and special police privately employed in a police capacity when such officers do not qualify for training under section 109.71 of the Revised Code. A person attending an approved basic training program administered by the state shall pay to the agency administering the program the cost of the person's participation in the program as determined by the

agency. A person attending an approved basic training program administered by a county or municipal corporation shall pay the cost of the person's participation in the program, as determined by the administering subdivision, to the county or the municipal corporation. A person who is issued a certificate for satisfactory completion of an approved basic training program shall pay to the commission a fee of fifteen dollars. A duplicate of a lost, spoliated, or destroyed certificate may be issued upon application and payment of a fee of fifteen dollars. Such certificate or the completion of twenty years of active duty as a peace officer shall satisfy the educational requirements for appointment or commission as a special police officer or special deputy of a political subdivision of this state.

(B)(1) The executive director of the Ohio peace officer training commission, on behalf of the commission and in accordance with rules promulgated by the attorney general, shall certify basic firearms training programs, and shall issue certificates to class A, B, or C licensees or prospective class A, B, or C licensees under Chapter 4749. of the Revised Code and to registered or prospective employees of such class A, B, or C licensees who have satisfactorily completed a basic firearms training program of the type described in division (A)(1) of section 4749.10 of the Revised Code.

Application for approval of a basic firearms training program shall be made to the commission. An application shall be submitted to the commission with a fee of one hundred dollars, which fee shall be refunded if the application is denied.

A person who is issued a certificate for satisfactory completion of an approved basic firearms training program shall pay a fee of ten dollars to the commission. A duplicate of a lost, spoliated, or destroyed certif issued upon application and payment of a fee of five dollars.

(2) The executive director, on behalf of the commission and in accordance with rules promulgated by the attorney general, also shall certify firearms requalification training programs and instructors for the annual requalification of class A, B, or C licensees under Chapter 4749. of the Revised Code and registered or prospective employees of such class A, B, or C licensees who are authorized to carry a firearm under section 4749.10 of the Revised Code. Application for approval of a training program or instructor for such purpose shall be made to the commission. Such an application shall be submitted to the commission with a fee of fifty dollars, which fee shall be refunded if the application is denied.

(3) The executive director, upon request, also shall review firearms training received within three years prior to November 23, 1985, by any class A, B, or C licensee or prospective class A, B, or C licensee, or by any registered or prospective employee of any class A, B, or C licensee under

Chapter 4749. of the Revised Code to determine if the training received is equivalent to a basic firearms training program that includes twenty hours of handgun training and five hours of training in the use of other firearms, if any other firearm is to be used. If the executive director determines the training was received within the three-year period and that it is equivalent to such a program, the executive director shall issue written evidence of approval of the equivalency training to the licensee or employee.

(C) There is hereby established in the state treasury the peace officer private security fund, which shall be used by the Ohio peace officer training commission to administer the training program to qualify persons for positions as special police, security guards, or other private employment in a police capacity, as described in division (A) of this section, and the training program in basic firearms and the training program for firearms requalification, both as described in division (B) of this section. All fees paid to the commission by applicants for approval of a training program designed to qualify persons for such private police positions, basic firearms training program, or a firearms requalification training program or instructor, as required by division (A) or (B) of this section, by persons who satisfactorily complete a private police training program or a basic firearms training program, as required by division (A) or (B) of this section, or by persons who satisfactorily requalify in firearms use, as required by division (B)(2) of section 4749.10 of the Revised Code, shall be transmitted to the treasurer of state for deposit in the fund. The fund shall be used only for the purpose set forth in this division.

~~(D) No (1) Subject to division (D)(2) of this section, no public or private educational institution or superintendent of the state highway patrol shall employ a person as a special police officer, security guard, or other for a similar law enforcement or security position in which such person goes armed while on duty, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed twenty years of active duty as a peace officer.~~

(2) Division (D)(1) of this section does not apply with respect to the employment of a person by a board of education or governing body of a school in a position in which the person has been authorized by a school board to voluntarily go armed within a school safety zone within which the board or governing body has authority, if both of the following apply with respect to the employment and person:

(a) The person will be going armed within a school safety zone within which the board or governing body has authority pursuant to written authorization from the board of education or governing body of the school, as described in division (D)(1)(a) of section 2923.122 of the Revised Code, to convey deadly weapons into, or to possess a deadly weapon in, a school safety zone within which the board or governing body has authority.

(b) The person is not being employed as a special police officer or security

officer."

In line 723, after "sections" insert "109.78,"

After line 724, insert:

"Section 3. The General Assembly hereby declares that the purpose of the amendments to section 109.78 of the Revised Code in this act is to expressly overrule the decision of the Twelfth District Court of Appeals in the case *Gabbard v. Madison Local School Dist. Bd. of Educ.*, 12th Dist. Butler No. CA2019-03-051, 2020-Ohio-1180."

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted – yeas 19, nays 12, as follows:

Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Eklund	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
McColley	Peterson	Roegner	Schaffer
Schuring	Wilson		Obhof-19

Those who voted in the negative were: Senators

Antonio	Craig	Dolan	Fedor
Kunze	Lehner	Maharath	Manning
O'Brien	Sykes	Thomas	Williams-12

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 421**, pass?"

The yeas and nays were taken and resulted – yeas 20, nays 11, as follows:

Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Eklund	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Manning	McColley	Peterson	Roegner
Schaffer	Schuring	Wilson	Obhof-20

Those who voted in the negative were: Senators

Antonio	Craig	Dolan	Fedor
Kunze	Lehner	Maharath	O'Brien
Sykes	Thomas		Williams-11

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Manning moved to amend the title as follows:

Add the names: "Senators Brenner, Burke, Coley, Huffman, S., Johnson, Schaffer."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Sub. S. B. No. 259 -Senator Sykes

Cosponsors: Senators Maharath, Manning, Antonio, Blessing, Burke, Craig, Fedor, Hottinger, Kunze, Lehner, O'Brien, Schuring, Thomas, Williams
Representatives Wiggam, Crawley, Galonski, Miller, J., Perales, Sheehy, Sykes, West

To amend sections 727.13, 727.14, 3333.26, and 5715.19 and to enact sections 9.239, 308.20, 308.21, 308.22, 308.23, 308.24, 308.25, 3318.038, and 3781.1011 of the Revised Code to modify the law governing property tax complaints, special assessments, economic development, energy-efficient public building design, classroom facility construction, and battery-charged fences, to authorize the conveyance of certain state-owned property, and to enact the "Anthony Dia Act" regarding residency determination for tuition and fee waivers for survivors of service officers and service members killed in the line of duty, and to make other changes to those waivers.

As a substitute bill, in which the concurrence of the Senate is requested.

Attest:

Bradley J. Young,
Clerk.

The yeas and nays were taken and resulted – yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Eklund
Fedor	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Lehner	Maharath	Manning
McColley	O'Brien	Peterson	Roegner
Schaffer	Schuring	Sykes	Thomas
Williams	Wilson		Obhof-31

So the Senate concurred in the amendments of the House of Representatives.

BILLS FOR THIRD CONSIDERATION

Senator Peterson moved that **Sub. H. B. No. 388**, having been informally passed, be brought up for consideration.

Sub. H. B. No. 388 - Representative Holmes, A..

Cosponsors: Representatives Butler, Edwards, Hambley, Perales, Roemer, Rogers, Romanchuk, West, Abrams, Baldrige, Brown, Carruthers, Cera, Clites, Crossman, DeVitis, Ghanbari, Ginter, Green, Greenspan, Grendell, Hicks-Hudson, Hillyer, Ingram, Jones, Lanese, Lang, LaRe, Leland,

Lightbody, Liston, Manning, G., Miller, J., Miranda, O'Brien, Patton, Richardson, Robinson, Seitz, Sheehy, Smith, K., Smith, T., Sobecki, Stein, Sweeney, Upchurch, Weinstein, Wilkin Senator Hackett.

To enact sections 3902.50, 3902.51, 3902.52, 3902.53, and 3902.54 of the Revised Code regarding out-of-network care, was taken up.

The question being, "Shall the bill, **Sub. H. B. No. 388**, pass?"

The yeas and nays were taken and resulted – yeas 26, nays 5, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Craig	Dolan	Eklund	Fedor
Gavarone	Hackett	Hoagland	Hottinger
Huffman, M.	Kunze	Lehner	Maharath
McColley	O'Brien	Peterson	Schaffer
Schuring	Sykes	Thomas	Williams
Wilson			Obhof-26

Senators Coley, Huffman, S., Johnson, Manning, and Roegner voted in the negative-5.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Hackett moved to amend the title as follows:

Add the names: "Senators Antonio, Craig, Eklund, Fedor, Hottinger, Lehner, Maharath, Williams."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Peterson moved that **Sub. H. B. No. 38**, having been informally passed, be brought up for consideration.

Sub. H. B. No. 38 - Representative Hillyer.

Cosponsors: Representatives Cross, Hood, Miller, J., Riedel, Weinstein, Boyd, Carruthers, Crossman, Denson, Edwards, Galonski, Ghanbari, Hambley, Holmes, A., Ingram, Lanese, Leland, Lightbody, Miranda, Reineke, Robinson, Roemer, Rogers, Seitz, Sheehy, Stein, Strahorn, Swearingen, West Senator Hackett.

To amend sections 135.77, 135.774, 307.04, 1115.05, 1321.52, 1321.68, 1322.01, 1322.02, 1322.04, 1322.07, 1322.09, 1322.10, 1322.12, 1322.15, 1322.29, 1322.30, 1322.32, 1322.34, 1322.43, 1322.50, 1322.52, 1345.01, 1349.72, 2913.11, and 4712.05; to enact section 1319.17; and to repeal sections 1322.24, 1322.25, and 1349.16 of the Revised Code relating to commercial credit reports, the Business Linked Deposit Program, the General Loan Law, the Ohio Banking Law, the Consumer Installment Loan Act, the Residential Mortgage Loan Law, utility supply contract duration, and COVID-19-related property tax valuation complaints, was taken up.

The question being, "Shall the bill, **Sub. H. B. No. 38**, pass?"

The yeas and nays were taken and resulted – yeas 30, nays 1, as follows:

Those who voted in the affirmative were: Senators

Antonio	Blessing	Brenner	Burke
Coley	Craig	Dolan	Fedor
Gavarone	Hackett	Hoagland	Hottinger
Huffman, M.	Huffman, S.	Johnson	Kunze
Lehner	Maharath	Manning	McColley
O'Brien	Peterson	Roegner	Schaffer
Schuring	Sykes	Thomas	Williams
Wilson			Obhof-30

Senator Eklund voted in the negative-1.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Hackett moved to amend the title as follows:

Add the names: "Senators Antonio, Blessing, Brenner, Craig, Kunze, Lehner, O'Brien, Thomas, Williams, Wilson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Peterson moved that **Sub. H. B. No. 75**, having been informally passed, be brought up for consideration.

Sub. H. B. No. 75 - Representative Merrin.

Cosponsors: Representatives Lang, Vitale, Romanchuk, Riedel, Seitz, Cross, Jordan, Becker, Keller, Stein, Butler, Callender, DeVitis, Edwards, Hambley, Smith, T., Stephens, Stoltzfus, Zeltwanger.

To amend sections 5709.17 and 5715.19 of the Revised Code to modify the manner by which local governments may initiate or participate in property tax complaints and to expand the property tax exemption for fraternal organizations, was taken up.

The question being, "Shall the bill, **Sub. H. B. No. 75**, pass?"

Senator Peterson moved to amend as follows:

In line 1 of the title, after "sections" insert "107.03, 122.17, 3735.65, 3735.67, 3735.671, 5703.48, 5703.95, 5709.121,"; delete "and" and insert ", 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, 5709.91,"; after "5715.19" insert ", 5733.41, 5739.02, 5741.02, 5747.41, and 5751.01"

In line 2 of the title, delete "manner by which local"

Delete lines 3 through 5

In line 6 of the title, delete "organizations" and insert "laws governing economic development and state and local tax incentives,

exemptions, and procedures"

In line 7, after "sections" insert "107.03, 122.17, 3735.65, 3735.67, 3735.671, 5703.48, 5703.95, 5709.121,"; after "5709.17" insert ", 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, 5709.91"; delete "and" and insert ", "; after "5715.19" insert ", 5733.41, 5739.02, 5741.02, 5747.41, and 5751.01"

After line 8, insert:

"Sec. 107.03. (A) As used in this section, "transportation budget" means the biennial budget that primarily includes the following:

(1) Motor fuel excise tax-related appropriations for the department of transportation, public works commission, and development services agency;

(2) Other appropriations that pertain to transportation and infrastructure related to transportation.

(B) The governor shall submit a transportation budget to the general assembly not later than four weeks after the general assembly's organization.

(C) The governor shall submit to the general assembly, not later than four weeks after its organization, a state budget containing a complete financial plan for the ensuing fiscal biennium, excluding items of revenue and expenditure described in section 126.022 of the Revised Code. However, in years of a new governor's inauguration, this budget shall be submitted not later than the fifteenth day of March.

(D) In years of a new governor's inauguration, only the new governor shall submit a budget to the general assembly. In addition to other things required by law, each of the governor's budgets shall contain:

(1) A general budget summary by function and agency setting forth the proposed total expenses from each and all funds and the anticipated resources for meeting such expenses; such resources to include any available balances in the several funds at the beginning of the biennium and a classification by totals of all revenue receipts estimated to accrue during the biennium under existing law and proposed legislation.

(2) A detailed statement showing the amounts recommended to be appropriated from each fund for each fiscal year of the biennium for current expenses, including, but not limited to, personal services, supplies and materials, equipment, subsidies and revenue distribution, merchandise for resale, transfers, and nonexpense disbursements, obligations, interest on debt, and retirement of debt, and for the biennium for capital outlay, to the respective departments, offices, institutions, as defined in section 121.01 of the Revised Code, and all other public purposes; and, in comparative form, the actual expenses by source of funds during each fiscal year of the previous two bienniums for each such purpose. No alterations shall be made in the requests for the legislative and judicial branches of the state filed with the director of budget and management under section 126.02 of the Revised

Code. If any amount of federal money is recommended to be appropriated or has been expended for a purpose for which state money also is recommended to be appropriated or has been expended, the amounts of federal money and state money involved shall be separately identified.

(3) A detailed estimate of the revenue receipts in each fund from each source under existing laws during each year of the biennium; and, in comparative form, actual revenue receipts in each fund from each source for each year of the two previous bienniums;

(4) The estimated cash balance in each fund at the beginning of the biennium covered by the budget; the estimated liabilities outstanding against each such balance; and the estimated net balance remaining and available for new appropriations;

(5) A detailed estimate of the additional revenue receipts in each fund from each source under proposed legislation, if enacted, during each year of the biennium;

~~(6) A description of each tax expenditure; a detailed estimate of the amount of revenues not available to the general revenue fund under existing laws during each fiscal year of the biennium covered by the budget due to the operation of each tax expenditure; and, in comparative form, the amount of revenue not available to the general revenue fund during each fiscal year of the immediately preceding biennium due to the operation of each tax expenditure. The most recent report prepared by the department of taxation pursuant to under section 5703.48 of the Revised Code, which shall be submitted to the general assembly as an appendix to the governor's budget. As used in this division, "tax expenditure" has the same meaning as in section 5703.48 of the Revised Code;~~

(7) The most recent report prepared by the tax expenditure review committee under division (F) of section 5703.95 of the Revised Code, which shall be submitted to the general assembly as an appendix to the governor's budget.

Sec. 122.17. (A) As used in this section:

(1) "Payroll" means the total taxable income paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to each employee or each home-based employee employed in the project to the extent such payroll is not used to determine the credit under section 122.171 of the Revised Code. "Payroll" excludes amounts paid before the day the taxpayer becomes eligible for the credit and retirement or other benefits paid or contributed by the employer to or on behalf of employees.

(2) "Baseline payroll" means Ohio employee payroll, except that the applicable measurement period is the twelve months immediately preceding

the date the tax credit authority approves the taxpayer's application or the date the tax credit authority receives the recommendation described in division (C) (2)(a) of this section, whichever occurs first, multiplied by the sum of one plus an annual pay increase factor to be determined by the tax credit authority.

(3) "Ohio employee payroll" means the amount of compensation used to determine the withholding obligations in division (A) of section 5747.06 of the Revised Code and paid by the employer during the employer's taxable year, or during the calendar year that includes the employer's tax period, to the following:

(a) An employee employed in the project who is a resident of this state including a qualifying work-from-home employee not designated as a home-based employee by an applicant under division (C)(1) of this section;

(b) An employee employed at the project location who is not a resident and whose compensation is not exempt from the tax imposed under section 5747.02 of the Revised Code pursuant to a reciprocity agreement with another state under division (A)(3) of section 5747.05 of the Revised Code;

(c) A home-based employee employed in the project.

"Ohio employee payroll" excludes any such compensation to the extent it is used to determine the credit under section 122.171 of the Revised Code, and excludes amounts paid before the day the taxpayer becomes eligible for the credit under this section.

(4) "Excess payroll" means Ohio employee payroll minus baseline payroll.

(5) "Home-based employee" means an employee whose services are performed primarily from the employee's residence in this state exclusively for the benefit of the project and whose rate of pay is at least one hundred thirty-one per cent of the federal minimum wage under 29 U.S.C. 206.

(6) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" excludes hours that are counted for a credit under section 122.171 of the Revised Code.

(7) "Metric evaluation date" means the date by which the taxpayer must meet all of the commitments included in the agreement.

(8) "Qualifying work-from-home employee" means an employee who is a resident of this state and whose services are supervised from the employer's project location and performed primarily from a residence of the employee located in this state.

(9) "Resident" or "resident of this state" means an individual who is a resident as defined in section 5747.01 of the Revised Code.

(10) "Megaproject" means a project in this state that meets all of the following requirements:

(a) The project requires unique sites, extremely robust utility service, and a technically skilled workforce;

(b) The megaproject operator of the project compensates the project's employees at an average hourly wage of at least three hundred per cent of the federal minimum wage under 29 U.S.C. 206, exclusive of employee benefits, at the time the tax credit authority approves the project for a credit under this section;

(c) The project satisfies either of the following by the metric evaluation date applicable to the project:

(i) The megaproject operator makes at least one billion dollars, as adjusted under division (U)(1) of this section, in fixed-asset investments in the project;

(ii) The megaproject operator creates at least seventy-five million dollars, as adjusted under division (U)(1) of this section, in Ohio employee payroll at the project.

(d) If the project satisfies division (A)(10)(c)(ii) of this section, then, on and after the metric evaluation date and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator maintains at least the amount in Ohio employee payroll at the project required under that division for each year in that period.

(11) "Megaproject operator" means a taxpayer that undertakes and operates a megaproject.

(12) "Megaproject supplier" means a supplier in this state that sells tangible personal property directly to a megaproject operator and meets all of the following requirements:

(a) Satisfies both of the following by the metric evaluation date applicable to the megaproject supplier:

(i) Makes at least one hundred million dollars, as adjusted under division (U)(2) of this section, in fixed-asset investments in this state;

(ii) Creates at least ten million dollars, as adjusted under division (U)(2) of this section, in Ohio employee payroll.

(b) On and after the metric evaluation date, until the end of the last year for which the megaproject supplier qualifies for the credit authorized under this section, maintains at least the amount in Ohio employee payroll required under division (A)(12)(a)(ii) of this section for each year in that period.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a

refundable credit allowed against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, or 5747.02 or levied under Chapter 5751. of the Revised Code. The credit shall be claimed for the taxable years or tax periods specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. With respect to taxes imposed under section 5726.02, 5733.06, or 5747.02 or Chapter 5751. of the Revised Code, the credit shall be claimed in the order required under section 5726.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. The amount of the credit available for a taxable year or for a calendar year that includes a tax period equals the excess payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority.

(C)(1) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section.

An application shall not propose to include both home-based employees and employees who are not home-based employees in the computation of Ohio employee payroll for the purposes of the same tax credit agreement, except that a qualifying work-from-home employee shall not be considered to be a home-based employee unless so designated by the applicant. If a taxpayer or potential taxpayer employs both home-based employees and employees who are not home-based employees in a project, the taxpayer shall submit separate applications for separate tax credit agreements for the project, one of which shall include home-based employees in the computation of Ohio employee payroll and one of which shall include all other employees in the computation of Ohio employee payroll.

The director of development services shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

- (a) The taxpayer's project will increase payroll;
- (b) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;
- (c) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(2)(a) A taxpayer that chooses to begin the project prior to receiving the determination of the authority may, upon submitting the taxpayer's application to the authority, request that the chief investment officer of the nonprofit corporation formed under section 187.01 of the Revised Code and the director review the taxpayer's application and recommend to the authority that the taxpayer's application be considered. As soon as possible after receiving such a request, the chief investment officer and the director shall

review the taxpayer's application and, if they determine that the application warrants consideration by the authority, make that recommendation to the authority not later than six months after the application is received by the authority.

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

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

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

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

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

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

(3) A requirement that the taxpayer shall maintain operations at the project location for at least the greater of seven years or the term of the credit plus three years;

(4) The percentage, as determined by the tax credit authority, of excess payroll that will be allowed as the amount of the credit for each taxable year or for each calendar year that includes a tax period;

(5) The pay increase factor to be applied to the taxpayer's baseline payroll;

(6) A requirement that the taxpayer annually shall report to the director of development services full-time equivalent employees, payroll, Ohio employee payroll, investment, the provision of health care benefits and tuition reimbursement if required in the agreement, and other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development services annually review the information reported under division (D)(6) of this section and verify compliance with the agreement; if the taxpayer is in compliance, a

requirement that the director issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit that may be claimed for the taxable or calendar year; If the taxpayer is a megaproject supplier, the director shall issue such a certificate to the supplier and to any megaproject operator (a) to which the supplier directly sells tangible personal property and (b) that is authorized to claim the credit pursuant to division (D)(10) of this section.

(8) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project location unless the director of development services determines that the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified by the taxpayer of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the employment position in the first political subdivision is replaced. The movement of a qualifying work-from-home employee to a different residence located in this state or to the project location shall not be considered a relocation of an employment position.

(9) If the tax credit is computed on the basis of home-based employees, that the tax credit may not be claimed by the taxpayer until the taxable year or tax period in which the taxpayer employs at least two hundred employees more than the number of employees the taxpayer employed on June 30, 2011.

(10) If the taxpayer is a megaproject supplier, the percentage of the annual tax credit certified under division (D)(7) of this section, up to one hundred per cent, that may be claimed by each megaproject operator to which the supplier directly sells tangible personal property, rather than by that supplier, on the condition that the megaproject operator continues to qualify as a megaproject operator.

(11) If the taxpayer is a megaproject operator or megaproject supplier, a requirement that the taxpayer continue to qualify as a megaproject operator or megaproject supplier, respectively, until the end of the last year for which the taxpayer qualifies for the credit authorized under this section.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project

consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project consisting of the nonretail facilities is eligible for a tax credit and only the excess payroll from the nonretail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase retail facilities for the purposes of this division, and are eligible for tax credits under this section.

(G) Financial statements and other information submitted to the development services agency or the tax credit authority by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner or, if the applicant or recipient is an insurance company, upon the request of the superintendent of insurance, the chairperson of the authority shall provide to the commissioner or superintendent any statement or information submitted by an applicant or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the statement or information.

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner or, if the taxpayer is an insurance company, to the superintendent of insurance, a copy of the director of development services' certificate of verification under division (D)(7) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within the time prescribed by section 5703.0510 of the Revised Code or within thirty days after the commissioner or superintendent requests it.

(I) The director of development services, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules that establish a procedure to be followed by the tax credit authority and the development services agency in the event the authority considers a taxpayer's application for which it receives a recommendation under division (C)(2)(a) of this section but does not approve it. The rules may provide for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. For the purposes of these rules, a qualifying work-from-home employee shall be

considered to be an employee employed at the applicant's project location. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (D)(6) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(K)(1) If the director of development services determines that a taxpayer who has received a credit under this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the tax credit authority may require the taxpayer to refund to this state a portion of the credit in accordance with the following:

(a) If the taxpayer fails to comply with the requirement under division (D)(3) of this section, an amount determined in accordance with the following:

(i) If the taxpayer maintained operations at the project location for a period less than or equal to the term of the credit, an amount not exceeding one hundred per cent of the sum of any credits allowed and received under this section;

(ii) If the taxpayer maintained operations at the project location for a period longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, an amount not exceeding seventy-five per cent of the sum of any credits allowed and received under this section.

(b) If, on the metric evaluation date, the taxpayer fails to substantially meet the job creation, payroll, or investment requirements included in the agreement, an amount determined at the discretion of the authority;

(c) If the taxpayer fails to substantially maintain the number of new

full-time equivalent employees or amount of payroll required under the agreement at any time during the term of the agreement after the metric evaluation date, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (K)(1)(a), (b), or (c) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or 5729. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded.

(L) On or before the first day of August each year, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

(M) There is hereby created the tax credit authority, which consists of the director of development services and four other members appointed as follows: the governor, the president of the senate, and the speaker of the house of representatives each shall appoint one member who shall be a specialist in economic development; the governor also shall appoint a member who is a specialist in taxation. Terms of office shall be for four years. Each member shall serve on the authority until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Members may be reappointed to the authority. Members of the authority shall receive their necessary and actual expenses while engaged in the business of

the authority. The director of development services shall serve as chairperson of the authority, and the members annually shall elect a vice-chairperson from among themselves. Three members of the authority constitute a quorum to transact and vote on the business of the authority. The majority vote of the membership of the authority is necessary to approve any such business, including the election of the vice-chairperson.

The director of development services may appoint a professional employee of the development services agency to serve as the director's substitute at a meeting of the authority. The director shall make the appointment in writing. In the absence of the director from a meeting of the authority, the appointed substitute shall serve as chairperson. In the absence of both the director and the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

(N) For purposes of the credits granted by this section against the taxes imposed under sections 5725.18 and 5729.03 of the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

(O) On or before the first day of March of each of the five calendar years beginning with 2014, each taxpayer subject to an agreement with the tax credit authority under this section on the basis of home-based employees shall report the number of home-based employees and other employees employed by the taxpayer in this state to the development services agency.

(P) On or before the first day of January of 2019, the director of development services shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the effect of agreements entered into under this section in which the taxpayer included home-based employees in the computation of income tax revenue, as that term was defined in this section prior to the amendment of this section by H.B. 64 of the 131st general assembly. The report shall include information on the number of such agreements that were entered into in the preceding six years, a description of the projects that were the subjects of such agreements, and an analysis of nationwide home-based employment trends, including the number of home-based jobs created from July 1, 2011, through June 30, 2017, and a description of any home-based employment tax incentives provided by other states during that time.

(Q) The director of development services may require any agreement entered into under this section for a tax credit computed on the basis of home-based employees to contain a provision that the taxpayer makes available health care benefits and tuition reimbursement to all employees.

(R) Original agreements approved by the tax credit authority under this section in 2014 or 2015 before September 29, 2015, may be revised at the request of the taxpayer to conform with the amendments to this section and

sections 5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by H.B. 64 of the 131st general assembly, upon mutual agreement of the taxpayer and the development services agency, and approval by the tax credit authority.

(S)(1) As used in division (S) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Reporting period" means a period corresponding to the annual report required under division (D)(6) of this section.

(c) "Income tax revenue" has the same meaning as under this section as it existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (S)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of that section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of that section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (S)(3) of this section shall not apply unless all of the following apply for the reporting period with respect to the eligible agreement:

(a) The taxpayer has achieved one hundred per cent of the new employment commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the new payroll commitment identified in the agreement.

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (S)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (S) of this section for an ensuing reporting period.

(T) The director of development services shall notify the tax commissioner if the director determines that a megaproject operator or megaproject supplier is not in compliance with the agreement pursuant to a review conducted under division (D)(7) of this section.

(U) Beginning in 2025 and in each fifth calendar year thereafter, the tax commissioner shall adjust the following amounts in September of that year:

(1) The fixed-asset investment threshold described in division (A)(10)(c)(i) of this section and the Ohio employee payroll threshold described in division (A)(10)(c)(ii) of this section by completing the following calculations:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the fifth preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by the fixed-asset investment threshold and the Ohio employee payroll threshold for the current year;

(c) Add the resulting products to the corresponding fixed-asset investment threshold and Ohio employee payroll threshold for the current year;

(d) Round the resulting fixed-asset investment sum to the nearest multiple of ten million dollars and the Ohio employee payroll sum to the nearest multiple of one million dollars.

(2) The fixed-asset investment threshold described in division (A)(12)(a)(i) of this section and the Ohio employee payroll threshold described in division (A)(12)(a)(ii) of this section by completing the calculations described in divisions (U)(1)(a) to (c) of this section and rounding the resulting fixed-asset investment sum to the nearest multiple of one million dollars and the Ohio employee payroll sum to the nearest multiple of one hundred thousand dollars.

The commissioner shall certify the amount of the adjustments under divisions (U)(1) and (2) of this section to the director of development services and to the tax credit authority not later than the first day of December of the year the commissioner computes the adjustment. Each certified amount applies to the ensuing calendar year and each calendar year thereafter until the

tax commissioner makes a new adjustment. The tax commissioner shall not calculate a new adjustment in any year in which the resulting amount from the adjustment would be less than the corresponding amount for the current year.

Sec. 3735.65. As used in sections 3735.65 to 3735.70 of the Revised Code:

(A) "Housing officer" means an officer or agency of a municipal corporation or county designated by the legislative authority of the municipal corporation or county, pursuant to section 3735.66 of the Revised Code, for each community reinvestment area to administer sections 3735.65 to 3735.69 of the Revised Code. One officer or agency may be designated as the housing officer for more than one community reinvestment area.

(B) "Community reinvestment area" means an area within a municipal corporation or unincorporated area of a county for which the legislative authority of the municipal corporation or, for the unincorporated area, of the county, has adopted a resolution under section 3735.66 of the Revised Code describing the boundaries of the area and containing a statement of finding that the area included in the description is one in which housing facilities or structures of historical significance are located and new housing construction and repair of existing facilities or structures are discouraged.

(C) "Remodeling" means any change made in a structure for the purpose of making it structurally more sound, more habitable, or for the purpose of improving its appearance.

(D) "Structure of historical or architectural significance" means those designated as such by resolution of the legislative authority of a municipal corporation, for those located in a municipal corporation, or the county, for those located in the unincorporated area of the county based on age, rarity, architectural quality, or because of a previous designation by a historical society, association, or agency.

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

Sec. 3735.67. (A) The owner of real property located in a community reinvestment area and eligible for exemption from taxation under a resolution adopted pursuant to section 3735.66 of the Revised Code may file an application for an exemption from real property taxation of a percentage of the assessed valuation of a new structure, or of the increased assessed valuation of an existing structure after remodeling began, if the new structure or remodeling is completed after the effective date of the resolution adopted pursuant to section 3735.66 of the Revised Code. The application shall be filed with the housing officer designated for the community reinvestment area in which the property is located. If any part of the new structure or remodeled structure that would be exempted is of real property to be used for

commercial or industrial purposes, the legislative authority and the owner of the property shall enter into a written agreement pursuant to section 3735.671 of the Revised Code prior to commencement of construction or remodeling; if such an agreement is subject to approval by the board of education of the school district within the territory of which the property is or will be located, the agreement shall not be formally approved by the legislative authority until the board of education approves the agreement in the manner prescribed by that section.

(B) The housing officer shall verify the construction of the new structure or the cost of the remodeling of the existing structure and the facts asserted in the application. The housing officer shall determine whether the construction or remodeling meets the requirements for an exemption under this section. In cases involving a structure of historical or architectural significance, the housing officer shall not determine whether the remodeling meets the requirements for a tax exemption unless the appropriateness of the remodeling has been certified, in writing, by the society, association, agency, or legislative authority that has designated the structure or by any organization or person authorized, in writing, by such society, association, agency, or legislative authority to certify the appropriateness of the remodeling.

(C) If the construction or remodeling meets the requirements for exemption, the housing officer shall forward the application to the county auditor with a certification as to the division of this section under which the exemption is granted, and the period and percentage of the exemption as determined by the legislative authority pursuant to that division. If the construction or remodeling is of commercial or industrial property and the legislative authority is not required to certify a copy of a resolution under section 3735.671 of the Revised Code, the housing officer shall comply with the notice requirements prescribed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(D) Except as provided in division (F) of this section, the tax exemption shall first apply in the year the construction or remodeling would first be taxable but for this section. In the case of remodeling that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the increased assessed valuation of an existing structure after remodeling began shall be exempted from real property taxation. In the case of construction of a structure that qualifies for exemption, a percentage, not to exceed one hundred per cent, of the assessed value of the structure shall be exempted from real property taxation. In either case, the percentage shall be the percentage set forth in the agreement if the structure or remodeling is to be used for commercial or industrial purposes, or the percentage set forth in the resolution describing the community reinvestment area if the structure or remodeling is to be used for residential purposes.

The construction of new structures and the remodeling of existing structures are hereby declared to be a public purpose for which exemptions from real property taxation may be granted for the following periods:

(1) For every dwelling and commercial or industrial properties, located within the same community reinvestment area, upon which the cost of remodeling is at least two thousand five hundred dollars in the case of a dwelling containing not more than two family units or at least five thousand dollars in the case of all other property, a period to be determined by the legislative authority adopting the resolution, but not exceeding fifteen years. The period of exemption for a dwelling described in division (D)(1) of this section may be extended by a legislative authority for up to an additional ten years if the dwelling is a structure of historical or architectural significance, is a certified historic structure that has been subject to federal tax treatment under 26 U.S.C. 47 and 170(h), and units within the structure have been leased to individual tenants for five consecutive years;

(2) Except as provided in division (F) of this section, for construction of every dwelling, and commercial or industrial structure located within the same community reinvestment area, a period to be determined by the legislative authority adopting the resolution, but not exceeding fifteen years. The period of exemption for construction of a commercial or industrial structure may be extended by a legislative authority for up to an additional fifteen years if the structure is situated on the site of a megaproject or is owned and occupied by a megaproject supplier.

(E) Any person, board, or officer authorized by section 5715.19 of the Revised Code to file complaints with the county board of revision may file a complaint with the housing officer challenging the continued exemption of any property granted an exemption under this section. A complaint against exemption shall be filed prior to the thirty-first day of December of the tax year for which taxation of the property is requested. The housing officer shall determine whether the property continues to meet the requirements for exemption and shall certify the housing officer's findings to the complainant. If the housing officer determines that the property does not meet the requirements for exemption, the housing officer shall notify the county auditor, who shall correct the tax list and duplicate accordingly.

(F) The owner of a dwelling constructed in a community reinvestment area may file an application for an exemption after the year the construction first became subject to taxation. The application shall be processed in accordance with the procedures prescribed under this section and shall be granted if the construction that is the subject of the application otherwise meets the requirements for an exemption under this section. If approved, the exemption sought in the application first applies in the year the application is filed. An exemption approved pursuant to this division continues only for those years remaining in the period described in division

(D)(2) of this section. No exemption may be claimed for any year in that period that precedes the year in which the application is filed.

Sec. 3735.671. (A) If construction or remodeling of commercial or industrial property is to be exempted from taxation pursuant to section 3735.67 of the Revised Code, the legislative authority and the owner of the property, prior to the commencement of construction or remodeling, shall enter into a written agreement, binding on both parties for a period of time that does not end prior to the end of the period of the exemption, that includes all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(1) Except as otherwise provided in division (A)(2) or (3) of this section, an agreement entered into under this section shall not be approved by the legislative authority unless the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves the agreement. For the purpose of obtaining such approval, the legislative authority shall certify a copy of the agreement to the board of education not later than forty-five days prior to approving the agreement, excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement. The legislative authority may approve an agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

(2) Approval of an agreement by the board of education is not required under division (A)(1) of this section if, for each tax year the real property is exempted from taxation, the sum of the following quantities, as estimated at or prior to the time the agreement is formally approved by the legislative authority, equals or exceeds fifty per cent of the amount of taxes, as estimated at or prior to that time, that would have been charged and payable that year upon the real property had that property not been exempted from taxation:

(a) The amount of taxes charged and payable on any portion of the assessed valuation of the new structure or of the increased assessed valuation of an existing structure after remodeling began that will not be exempted from taxation under the agreement;

(b) The amount of taxes charged and payable on tangible personal property located on the premises of the new structure or of the structure to be remodeled under the agreement, whether payable by the owner of the structure or by a related member, as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

(c) The amount of any cash payment by the owner of the new structure or structure to be remodeled to the school district, the dollar value, as mutually agreed to by the owner and the board of education, of any property or services provided by the owner of the property to the school district, whether by gift, loan, or otherwise, and any payment by the legislative authority to the school district pursuant to section 5709.82 of the Revised Code.

The estimates of quantities used for purposes of division (A)(2) of this section shall be estimated by the legislative authority. The legislative authority shall certify to the board of education that the estimates have been made in good faith. Departures of the actual quantities from the estimates subsequent to approval of the agreement by the board of education do not invalidate the agreement.

(3) If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's execution of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such execution as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(B) Each agreement shall include the following information:

(1) The names of all parties to the agreement;

(2) A description of the remodeling or construction, whether or not to be exempted from taxation, including existing or new structure size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the property, and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement; the value of inventory at the property, including an itemization of the value of inventory held at another location in this state prior to the

agreement and relocated or to be relocated from that location to the property, and the value of inventory held at the property prior to the execution of the agreement;

(3) The scheduled starting and completion dates of remodeling or construction of real property or of investments made in machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the owner due to the remodeling or construction, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (B)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the property and at any other location in this state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(C) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after _____ (insert date) nor extend beyond _____ (insert date)."

(2) " _____ (insert name of owner) shall pay such real property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If _____ (insert name of owner) fails to pay such taxes or file such returns and reports, exemptions from taxation granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

(3) " _____ (insert name of owner) hereby certifies that at the time this agreement is executed, _____ (insert name of owner) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which _____ (insert name of owner) is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, or, if such delinquent taxes are owed, _____ (insert name of owner) currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed

against _____ (insert name of owner). For the purposes of this certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(4) " _____ (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(5) "If for any reason _____ (insert name of municipal corporation or county) revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless _____ (insert name of owner) materially fails to fulfill its obligations under this agreement and _____ (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation pursuant to this agreement."

(6) "If _____ (insert name of owner) materially fails to fulfill its obligations under this agreement, or if _____ (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, _____ (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(7) " _____ (insert name of owner) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the applicant's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council."

(8) "This agreement is not transferable or assignable without the express, written approval of _____ (insert name of municipal corporation or county)."

(9) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that _____ (insert name of owner), any successor to that person, or any related member (as those terms are defined in division (E) of section 3735.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(10) " _____ (insert name of owner) and _____ (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of _____ (insert name of municipal corporation or county) as a condition for the

agreement to take effect. This agreement takes effect upon such approval."

(11) If the agreement relates to a commercial or industrial structure subject to the extension for megaprojects or megaproject suppliers described in division (D)(2) of section 3735.67 of the Revised Code, both of the following:

(a) A requirement that the owner of the structure annually certify to the legislative authority whether the megaproject operator of the megaproject upon which the structure is situated or the megaproject supplier, as applicable, holds a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year;

(b) A provision authorizing the legislative authority to terminate the exemption for current and subsequent tax years if the megaproject operator or megaproject supplier does not hold a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year.

The statement described in division (C)(6) of this section may include the following statement, appended at the end of the statement: ", and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." If the agreement includes a statement requiring repayment of exempted taxes, it also may authorize the legislative authority to secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid. Such a lien shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property.

(D) Except as otherwise provided in this division, an agreement entered into under this section shall require that the owner pay an annual fee equal to the greater of one per cent of the amount of taxes exempted under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 3735.672 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee, but such waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 3735.672 or 5709.85 of the Revised Code.

(E) If any person that is party to an agreement granting an exemption from taxation discontinues operations at the structure to which that exemption applies prior to the expiration of the term of the agreement, that person, any successor to that person, and any related member shall not enter into an agreement under this section or section 5709.62, 5709.63, or 5709.632 of the Revised Code, and no legislative authority shall enter into such an agreement with such a person, successor, or related member, prior to the expiration of five years after the discontinuation of operations. As used in this division, "successor" means a person to which the assets or equity of another person 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. "Related member" has the same meaning as defined in section 5733.042 of the Revised Code without regard to division (B) of that section.

The director of development services shall review all agreements submitted to the director under division (F) of this section for the purpose of enforcing this division. If the director determines there has been a violation of this division, the director shall notify the legislative authority of such violation, and the legislative authority immediately shall revoke the exemption granted under the agreement.

(F) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development services within fifteen days after the agreement is entered into.

Sec. 5703.48. (A) As used in this section ~~and section 107.03 of the Revised Code, "tax:~~

(1) "Tax expenditure" means a tax provision in the Revised Code that exempts, either in whole or in part, certain persons, income, goods, services, or property from the effect of taxes levied by the state, including, but not limited to, tax deductions, exemptions, deferrals, exclusions, allowances, credits, reimbursements, and preferential tax rates, provided all of the following apply to the provision:

~~(1)-(a)~~ (a) The provision reduces, or has the potential to reduce, revenue to the general revenue fund;

~~(2)-(b)~~ (b) The persons, income, goods, services, or property exempted by the provision would have been part of a defined tax base;

~~(3)-(c)~~ (c) The persons, income, goods, services, or property exempted by the provision are not subject to an alternate tax levied by the state;

~~(4)-(d)~~ (d) The provision is subject to modification or repeal by an act of the general assembly.

(2) "Property tax exemption" means a provision in the Revised Code

that exempts or authorizes a subdivision to exempt from taxation all or a portion of the value of real property, as reported on forms otherwise prescribed by the tax commissioner and as categorized by the tax commissioner for purposes of this section as:

(a) Charitable and public worship;

(b) Public and educational;

(c) Local economic development;

(d) Other exemptions.

(B) The department of taxation shall prepare and submit to the governor not later than the first day of November in each even-numbered year a report describing the effect of containing certain information about tax expenditures on the general revenue fund and property tax exemptions. The report shall contain a each of the following:

(1) A description of each existing tax expenditure under existing laws and, in and property tax exemption;

(2) In comparative form, a detailed estimate of the approximate amount of revenue not available to the state general revenue fund in each fiscal year of the current and ensuing fiscal bienniums as a result of the operation of each tax expenditure;

(3) The aggregate true value of real property exempted in this state for the preceding tax year as the result of the operation of each property tax exemption;

(4) The amount of revenue paid from the general revenue fund in the preceding calendar year to reimburse subdivisions for each property tax exemption for which such reimbursement is required. The

The report shall be prepared in such a manner as to facilitate the inclusion of the information provided by the report in the governor's budget.

Sec. 5703.95. (A) As used in this section, "tax expenditure" has and "property tax exemption" have the same meaning meanings as in section 5703.48 of the Revised Code.

(B) There is hereby created the tax expenditure review committee, consisting of seven members, composed of the following:

(1) Three members of the house of representatives appointed by the speaker of the house of representatives in consultation with the minority leader of the house of representatives. Members described in division (B)(1) of this section shall not all be members of the same party and should be members of the house of representatives committee that deals primarily with tax legislation;

(2) Three members of the senate appointed by the president of the senate in consultation with the minority leader of the senate. Members

described in division (B)(2) of this section shall not all be members of the same party and should be members of the senate committee that deals primarily with tax legislation;

(3) The tax commissioner or the tax commissioner's designee. The member described in division (B)(3) of this section shall be a nonvoting member.

The speaker of the house of representatives and the president of the senate shall make initial appointments to the committee not later than thirty days after March 21, 2017. Thereafter, the terms of the office for appointed members shall be the same as the term of each general assembly. Members may be reappointed, provided the member continues to meet all other eligibility requirements. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy before the expiration of the term for which the predecessor was appointed shall hold office as a member for the remainder of that term. Appointed members of the committee serve at the pleasure of the member's appointing authority and may be removed only by the appointing authority.

(C) The tax expenditure review committee shall hold its first meeting within ninety days after March 21, 2017. At the first meeting, the members shall elect a chairperson, who shall be one of the members described in division (B)(1) or (2) of this section. Thereafter, the committee shall meet at least once during the first year of each fiscal biennium to review existing tax expenditures and property tax exemptions pursuant to division (D) of this section, provided the committee shall hold, for any such expenditure and exemption, at least one meeting at which a person may present to the committee evidence or testimony related to that expenditure or exemption. Any person may submit to the chairperson a request that the committee meet to accept evidence or testimony on a tax expenditure or property tax exemption. The committee is a public body for the purposes of section 121.22 of the Revised Code.

The chairperson of the committee shall serve until the thirty-first day of December of each even-numbered year. Thereafter, members shall elect a new chairperson. If the preceding chairperson was a member described in division (B)(1) of this section, the new chairperson shall be a member described in division (B)(2) of this section. If the preceding chairperson was a member described in division (B)(2) of this section, the new chairperson shall be a member described in division (B)(1) of this section.

A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the voting members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the voting members of the committee is necessary for any action to be

taken by the committee.

Upon the committee's request, a county auditor or county treasurer or the department of taxation, development services agency, office of budget and management, or other state agency shall provide any information in its possession that the committee requires to perform its duties.

The staff of the legislative service commission shall assist the committee as directed by the committee.

(D) The committee shall establish a schedule for review for each tax expenditure and each property tax exemption so that each expenditure and exemption is reviewed at least once every eight years. The schedule may provide for the review of each tax expenditure and exemption in the order the expenditures and exemptions were enacted or modified, beginning with the least recently enacted or modified ~~tax~~-expenditure or exemption. Alternatively, the review schedule may group tax expenditures and property tax exemptions by the individuals or industries benefiting from the ~~expenditures~~ expenditure or exemption, the objectives of each expenditure or exemption, or the policy rationale of each expenditure or exemption. In its review, the committee shall make recommendations as to whether each tax expenditure and property tax exemption should be continued without modification, modified, scheduled for further review at a future date to consider repealing the expenditure or exemption, or repealed outright. For each expenditure and exemption reviewed, the committee may recommend accountability standards for the future review of the expenditure or exemption. The committee may consider, when reviewing a tax expenditure or property tax exemption, any of the relevant factors described in division (E) of this section.

(E) In conducting reviews pursuant to division (D) of this section, the committee may consider the following factors:

(1) The number and classes of persons, organizations, businesses, or types of industries that would receive the direct benefit or consequences of the tax expenditure or property tax exemption;

(2) The fiscal impact of the tax expenditure or property tax exemption on state and local taxing authorities and subdivisions, including any past fiscal effects and expected future fiscal impacts of the ~~tax~~-expenditure or exemption in the following eight-year period;

(3) Public policy objectives that might support the tax expenditure or property tax exemption. In researching such objectives, the committee may consider the expenditure's or exemption's legislative history, the ~~tax~~-expenditure's or exemption's sponsor's intent in proposing the ~~tax~~-expenditure or exemption, or the extent to which the ~~tax~~-expenditure or exemption 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.

(4) Whether the tax expenditure or property tax exemption successfully accomplishes any of the objectives identified in division (E)(3) of this section;

(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 property tax exemption or with less cost to the state or local governments;

(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;

(7) The extent to which the tax expenditure or property tax exemption 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 respect to other businesses in the state;

(8) The extent to which terminating the tax expenditure or property tax exemption may have negative effects on taxpayers that currently benefit from the tax expenditure;

(9) The extent to which terminating the tax expenditure or property tax exemption may have negative or positive effects on the state's employment and economy;

(10) The feasibility of modifying the tax expenditure or property tax exemption to provide for adjustment or recapture of the proceeds of the ~~tax-expenditure~~ or exemption if the objectives of the ~~tax-expenditure~~ or exemption are not fulfilled by the recipient of the ~~tax-expenditure~~ or exemption.

(F) The committee shall prepare a report of its determinations under division (D) of this section and, not later than the first day of July of each even-numbered year, submit a copy of the report to the governor, the speaker of the house of representatives, the president of the senate, the minority leader of the house of representatives, and the minority leader of the senate. The first report shall be submitted either in 2017 or 2018. If the committee maintains a web site, the committee shall cause a copy of the report to be posted on the web site in a form enabling access to the report by the public within thirty days after the report is submitted under this division. If the committee does not maintain a web site, the committee shall request that the president of the senate and the speaker of the house of representatives cause the report to be posted on the web site of the general assembly.

(G) Any bill introduced in the house of representatives or the senate that proposes to enact or modify one or more tax expenditures or property tax

exemptions should include a statement explaining the objectives of the ~~tax~~-expenditure or exemption or its modification and the sponsor's intent in proposing the ~~tax~~-expenditure or exemption or its modification.

Sec. 5709.121. (A) Real property and tangible personal property belonging to a charitable or educational institution or to the state or a political subdivision, shall be considered as used exclusively for charitable or public purposes by such institution, the state, or political subdivision, if it meets one of the following requirements:

(1) It is used by such institution, the state, or political subdivision, or by one or more other such institutions, the state, or political subdivisions under a lease, sublease, or other contractual arrangement:

(a) As a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein;

(b) As a children's, science, history, or natural history museum that is open to the general public;

(c) For other charitable, educational, or public purposes.

(2) It is made available under the direction or control of such institution, the state, or political subdivision for use in furtherance of or incidental to its charitable, educational, or public purposes and not with the view to profit.

(3) It is used by an organization described in division (D) of section 5709.12 of the Revised Code. If the organization is a corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year, "used," for the purposes of this division, includes holding property for lease or resale to others.

(B)(1) Property described in division (A)(1)(a) or (b) of this section shall continue to be considered as used exclusively for charitable or public purposes even if the property is conveyed through one conveyance or a series of conveyances to an entity that is not a charitable or educational institution and is not the state or a political subdivision, provided that all of the following conditions apply with respect to that property:

(a) The property was listed as exempt on the county auditor's tax list and duplicate for the county in which it is located for the tax year immediately preceding the year in which the property is conveyed through one conveyance or a series of conveyances;

(b) The property is conveyed through one conveyance or a series of conveyances to an entity that does any of the following:

(i) Leases at least forty-five per cent of the property, through one lease or a series of leases, to the entity that owned or occupied the property

for the tax year immediately preceding the year in which the property is conveyed or to an affiliate of that entity;

(ii) Contracts, directly or indirectly to have renovations performed as described in division (B)(1)(d) of this section and is at least partially owned by a nonprofit organization described in section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of that code.

(c) The property includes improvements that are at least fifty years old;

(d) The property is being renovated in connection with a claim for historic preservation tax credits available under federal law;

(e) All or a portion of the property continues to be used for the purposes described in division (A)(1)(a) or (b) of this section after its conveyance; and

(f) The property is certified by the United States secretary of the interior as a "certified historic structure" or certified as part of a certified historic structure.

(2) Notwithstanding section 5715.27 of the Revised Code, an application for exemption from taxation of property described in division (B)(1) of this section may be filed by either the owner of the property or an occupant.

(C) For purposes of this section, an institution that meets all of the following requirements is conclusively presumed to be a charitable institution:

(1) The institution is a nonprofit corporation or association, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(2) The institution is exempt from federal income taxation under section 501(a) of the Internal Revenue Code;

(3) The majority of the institution's board of directors are appointed by the mayor or legislative authority of a municipal corporation or a board of county commissioners, or a combination thereof;

(4) The primary purpose of the institution is to assist in the development and revitalization of downtown urban areas.

(D) For purposes of division (A)(1)(b) of this section, the status of a museum as open to the general public shall be conclusive if the museum is accredited by the American alliance of museums or a successor organization.

(E)(1) Qualifying real property owned by an institution that meets all of the following requirements shall be considered as used exclusively for charitable purposes, and the institution shall be considered a charitable institution for purposes of this section and section 5709.12 of the Revised

Code:

(a) The institution is an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code.

(b) The institution's primary purpose is to acquire, develop, lease, or otherwise provide suitable housing to individuals with developmental disabilities.

(c) The institution receives at least a portion of its funding from one or more county boards of developmental disabilities to assist in the institution's primary purpose described in division (E)(1)(b) of this section.

(2) As used in division (E) of this section, "qualifying real property" means real property that is used primarily in one of the following manners:

(a) The property is used by the institution described in division (E)(1) of this section for the purpose described in division (E)(1)(b) of this section.

(b) The property is leased or otherwise provided by the institution described in division (E)(1) of this section to individuals with developmental disabilities and used by those individuals as housing.

(c) The property is leased or otherwise provided by the institution described in division (E)(1) of this section to another charitable institution, and that charitable institution uses the property exclusively for charitable purposes.

(F)(1) Qualifying real property owned by an institution that meets all of the following requirements shall be considered as used exclusively for charitable purposes, and the institution shall be considered a charitable institution for purposes of this section and section 5709.12 of the Revised Code:

(a) The institution is either (i) an organization described under section 501(c)(3) of the Internal Revenue Code and exempt from federal income taxation under section 501(a) of the Internal Revenue Code that has as a primary purpose to acquire, develop, lease, or otherwise provide suitable supportive housing to individuals diagnosed with mental illness or substance use disorder and to families residing with such individuals or (ii) a limited liability company or limited partnership whose controlling or managing member or partner either is an organization described in division (F)(1)(a)(i) of this section or is wholly owned by one or more such organizations.

(b) One or more of the tax-exempt organizations identified in division (F)(1)(a) of this section receives at least a portion of its funding to assist in the organization's primary purpose described in division (F)(1)(a)(i) of this section from the department of mental health and addiction services; one or more county boards of alcohol, drug addiction, and mental health services; or a local continuum of care program governed by 42 U.S.C. 11381.

et seq. and 24 C.F.R. part 578.

(2) As used in division (F) of this section, "qualifying real property" means real property that is used primarily in one of the following manners:

(a) The property is used by the institution described in division (F)(1) of this section for the purpose described in division (F)(1)(a)(i) of this section.

(b) The institution (i) leases or otherwise provides the property to individuals diagnosed with mental illness or substance use disorder and to the families residing with such individuals and (ii) makes supportive services available to such individuals and families.

(c) The property is leased or otherwise provided by that institution to another charitable institution, and that charitable institution uses the property exclusively for charitable purposes."

After line 72, insert:

"Sec. 5709.61. As used in sections 5709.61 to 5709.69 of the Revised Code:

(A) "Enterprise zone" or "zone" means any of the following:

(1) An area with a single continuous boundary designated in the manner set forth in section 5709.62 or 5709.63 of the Revised Code and certified by the director of development as having a population of at least four thousand according to the best and most recent data available to the director and having at least two of the following characteristics:

(a) It is located in a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area;

(b) It is located in a county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 App. U.S.C.A. 403, as amended;

(c) Its average rate of unemployment, during the most recent twelve-month period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the state of Ohio for the same period;

(d) There is a prevalence of commercial or industrial structures in the area that are vacant or demolished, or are vacant and the taxes charged thereon are delinquent, and certification of the area as an enterprise zone would likely result in the reduction of the rate of vacant or demolished structures or the rate of tax delinquency in the area;

(e) The population of all census tracts in the area, according to the federal census of 2000, decreased by at least ten per cent between the years 1980 and 2000;

(f) At least fifty-one per cent of the residents of the area have

incomes of less than eighty per cent of the median income of residents of the municipal corporation or municipal corporations in which the area is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(g) The area contains structures previously used for industrial purposes, but currently not so used due to age, obsolescence, deterioration, relocation of the former occupant's operations, or cessation of operations resulting from unfavorable economic conditions either generally or in a specific economic sector;

(h) It is located within one or more adjacent city, local, or exempted village school districts, the income-weighted tax capacity of each of which is less than seventy per cent of the average of the income-weighted tax capacity of all city, local, or exempted village school districts in the state according to the most recent data available to the director from the department of taxation.

The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code establishing conditions constituting the characteristics described in divisions (A)(1)(d), (g), and (h) of this section.

If an area could not be certified as an enterprise zone unless it satisfied division (A)(1)(g) of this section, the legislative authority may enter into agreements in that zone under section 5709.62, 5709.63, or 5709.632 of the Revised Code only if such agreements result in the development of the facilities described in that division, the parcel of land on which such facilities are situated, or adjacent parcels. The director of development annually shall review all agreements in such zones to determine whether the agreements have resulted in such development; if the director determines that the agreements have not resulted in such development, the director immediately shall revoke certification of the zone and notify the legislative authority of such revocation. Any agreements entered into prior to revocation under this paragraph shall continue in effect for the period provided in the agreement.

(2) An area with a single continuous boundary designated in the manner set forth in section 5709.63 of the Revised Code and certified by the director of development as having all of the following characteristics:

(a) Being located within a county that contains a population of three hundred thousand or less;

(b) Having a population of at least one thousand according to the best and most recent data available to the director;

(c) Having at least two of the characteristics described in divisions (A)(1)(b) to (h) of this section.

(3) An area with a single continuous boundary designated in the manner set forth under division (A)(1) of section 5709.632 of the Revised

Code and certified by the director of development as having a population of at least four thousand, or under division (A)(2) of that section and certified as having a population of at least one thousand, according to the best and most recent data available to the director.

(B) "Enterprise" means any form of business organization including, but not limited to, any partnership, sole proprietorship, or corporation, including an S corporation as defined in section 1361 of the Internal Revenue Code and any corporation that is majority worker-owned either directly through the ownership of stock or indirectly through participation in an employee stock ownership plan.

(C) "Facility" means an enterprise's place of business in a zone, including land, buildings, machinery, equipment, and other materials, except inventory, used in business. "Facility" includes land, buildings, machinery, production and station equipment, other equipment, and other materials, except inventory, used in business to generate electricity, provided that, for purposes of sections 5709.61 to 5709.69 of the Revised Code, the value of the property at such a facility shall be reduced by the value, if any, that is not apportioned under section 5727.15 of the Revised Code to the taxing district in which the facility is physically located. In the case of such a facility that is physically located in two adjacent taxing districts, the property located in each taxing district constitutes a separate facility.

"Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code or the board of education of the city, local, or exempted village school district within the territory of which the place of business is located adopts a resolution waiving the exclusion of retail facilities under section 5709.634 of the Revised Code.

(D) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under section 5709.62 or 5709.63 of the Revised Code.

(E) "Expand" means to make expenditures to add land, buildings, machinery, equipment, or other materials, except inventory, to a facility that equal at least ten per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(F) "Renovate" means to make expenditures to alter or repair a facility that equal at least fifty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.

(G) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property

taxation.

(H) "Project site" means all or any part of a facility that is newly constructed, expanded, renovated, or occupied by an enterprise.

(I) "Project" means any undertaking by an enterprise to establish a facility or to improve a project site by expansion, renovation, or occupancy.

(J) "Position" means the position of one full-time employee performing a particular set of tasks and duties.

(K) "Full-time employee" means an individual who is employed for consideration by an enterprise for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(L) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters an agreement under section 5709.62 or 5709.63 of the Revised Code. "New employee" does not include an employee if, immediately prior to being employed by the enterprise, the employee was employed by an enterprise that is a related member or predecessor enterprise of that enterprise.

(M) "Unemployed person" means any person who is totally unemployed in this state, as that term is defined in division (M) of section 4141.01 of the Revised Code, for at least ten consecutive weeks immediately preceding that person's employment at a facility that is a project site, or who is so unemployed for at least twenty-six of the fifty-two weeks immediately preceding that person's employment at such a facility.

(N) "JTPA eligible employee" means any individual who is eligible for employment or training under the "Job Training Partnership Act," 96 Stat. 1324 (1982), 29 U.S.C. 1501, as amended.

(O) "First used in business" means that the property referred to has not been used in business in this state by the enterprise that owns it, or by an enterprise that is a related member or predecessor enterprise of such an enterprise, other than as inventory, prior to being used in business at a facility as the result of a project.

(P) "Training program" means any noncredit training program or course of study that is offered by any state college or university; university branch district; community college; technical college; nonprofit college or university certified under section 1713.02 of the Revised Code; school district; joint vocational school district; school registered and authorized to offer programs under section 3332.05 of the Revised Code; an entity administering any federal, state, or local adult education and training program; or any enterprise; and that meets all of the following requirements:

- (1) It is approved by the director of development;
- (2) It is established or operated to satisfy the need of a particular

industry or enterprise for skilled or semi-skilled employees;

(3) An individual is required to complete the course or program before filling a position at a project site.

(Q) "Development" means to engage in the process of clearing and grading land, making, installing, or constructing water distribution systems, sewers, sewage collection systems, steam, gas, and electric lines, roads, curbs, gutters, sidewalks, storm drainage facilities, and construction of other facilities or buildings equal to at least fifty per cent of the market value of the facility prior to the expenditures, as determined for the purposes of local property taxation.

(R) "Large manufacturing facility" means a single Ohio facility that employed an average of at least one thousand individuals during the five calendar years preceding an agreement authorized under division (C)(3) of section 5709.62 or division (B)(2) of section 5709.63 of the Revised Code. For purposes of this division, both of the following apply:

(1) A single Ohio manufacturing facility employed an average of at least one thousand individuals during the five calendar years preceding entering into such an agreement if one-fifth of the sum of the number of employees employed on the highest employment day during each of the five calendar years equals or exceeds one thousand.

(2) The highest employment day is the day or days during a calendar year on which the number of employees employed at a single Ohio manufacturing facility was greater than on any other day during the calendar year.

(S) "Business cycle" means the cycle of business activity usually regarded as passing through alternating stages of prosperity and depression.

(T) "Making retail sales" means the effecting of point-of-final-purchase transactions at a facility open to the consuming public, wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold.

(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.

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

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development services for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development services, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen,

of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

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

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

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the

portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2) (a), (b), and (c), and (C)(3) of this section may be for up to fifteen years and the exemption described in division (C)(4) of this section may be for up to thirty years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a

board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development services under this section prior to July 22, 1994.

The legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement

entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3) and (4), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development services.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development services for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, with the consent of the legislative authority of each affected municipal corporation or of the board of township

trustees, may do ~~either one~~ of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

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

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

(3) Enter into an agreement with an enterprise that either is the owner of real property constituting the site of a megaproject or is a megaproject

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

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years and the exemption described in division (B)(3) of this section may be for up to thirty years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county

commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development services under this section prior to July 22, 1994.

With the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division

(B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by

the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2) and (3), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2) (a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development services or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.631. Each agreement entered into under sections 5709.62, 5709.63, and 5709.632 of the Revised Code on or after April 1, 1994, shall be in writing and shall include all of the information and statements prescribed by this section. Agreements may include terms not prescribed by this section, but such terms shall in no way derogate from the information and statements prescribed by this section.

(A) Each agreement shall include the following information:

- (1) The names of all parties to the agreement;
- (2) A description of the investments to be made by the applicant enterprise or by another party at the facility whether or not the investments are

exempted from taxation, including existing or new building size and cost thereof; the value of machinery, equipment, furniture, and fixtures, including an itemization of the value of machinery, equipment, furniture, and fixtures used at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility and the value of machinery, equipment, furniture, and fixtures at the facility prior to the execution of the agreement that will not be exempted from taxation; the value of inventory at the facility, including an itemization of the value of inventory held at another location in this state prior to the agreement and relocated or to be relocated from that location to the facility, and the value of inventory held at the facility prior to the execution of the agreement that will not be exempted from taxation;

(3) The scheduled starting and completion dates of investments made in building, machinery, equipment, furniture, fixtures, and inventory;

(4) Estimates of the number of employee positions to be created each year of the agreement and of the number of employee positions retained by the applicant enterprise due to the project, itemized as to the number of full-time, part-time, permanent, and temporary positions;

(5) Estimates of the dollar amount of payroll attributable to the positions set forth in division (A)(4) of this section, similarly itemized;

(6) The number of employee positions, if any, at the project site and at any other location in the state at the time the agreement is executed, itemized as to the number of full-time, part-time, permanent, and temporary positions.

(B) Each agreement shall set forth the following information and incorporate the following statements:

(1) A description of real property to be exempted from taxation under the agreement, the percentage of the assessed valuation of the real property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The exemption commences the first year for which the real property would first be taxable were that property not exempted from taxation. No exemption shall commence after _____ (insert date) nor extend beyond _____ (insert date)." The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(2) A description of tangible personal property to be exempted from taxation under the agreement, the percentage of the assessed value of the tangible personal property exempted from taxation, and the period for which the exemption is granted, accompanied by the statement: "The minimum investment for tangible personal property to qualify for the exemption is

\$ _____ (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, \$ _____ (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$ _____ (insert dollar amount) for new inventory. The maximum investment for tangible personal property to qualify for the exemption is \$ _____ (insert dollar amount) to purchase machinery and equipment first used in business at the facility as a result of the project, \$ _____ (insert dollar amount) for furniture and fixtures and other noninventory personal property first used in business at the facility as a result of the project, and \$ _____ (insert dollar amount) for new inventory. The exemption commences the first year for which the tangible personal property would first be taxable were that property not exempted from taxation. No exemption shall commence after tax return year _____ (insert year) nor extend beyond tax return year _____ (insert year). In no instance shall any tangible personal property be exempted from taxation for more than ten return years unless, under division (D)(2) of section 5709.62 or under division (C)(1)(b) of section 5709.63 of the Revised Code, the board of education approves exemption for a number of years in excess of ten, in which case the tangible personal property may be exempted from taxation for that number of years, not to exceed fifteen return years." No exemption shall be allowed for any type of tangible personal property if the total investment is less than the minimum dollar amount specified for that type of property. If, for a type of tangible personal property, there are no minimum or maximum investment dollar amounts specified in the statement or the dollar amounts are designated in the statement as not applicable, the exemption shall apply to the total cost of that type of tangible personal property first used in business at the facility as a result of the project. The tax commissioner shall adopt rules prescribing the form the description of such property shall assume to ensure that the property to be exempted from taxation under the agreement is distinguishable from property that is not to be exempted under that agreement.

(3) " _____ (insert name of enterprise) shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If _____ (insert name of enterprise) fails to pay such taxes or file such returns and reports, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter."

(4) " _____ (insert name of enterprise) hereby certifies that at the time this agreement is executed, _____ (insert name of enterprise) does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which _____ (insert name of enterprise) is liable under Chapter 5727.,

5733., 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, _____ (insert name of enterprise) currently is paying the delinquent taxes pursuant to a delinquent tax contract enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against _____ (insert name of enterprise). For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes."

(5) " _____ (insert name of municipal corporation or county) shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with such exemptions."

(6) "If for any reason the enterprise zone designation expires, the Director of the Ohio Department of Development revokes certification of the zone, or _____ (insert name of municipal corporation or county) revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless _____ (insert name of enterprise) materially fails to fulfill its obligations under this agreement and _____ (insert name of municipal corporation or county) terminates or modifies the exemptions from taxation granted under this agreement."

(7) "If _____ (insert name of enterprise) materially fails to fulfill its obligations under this agreement, other than with respect to the number of employee positions estimated to be created or retained under this agreement, or if _____ (insert name of municipal corporation or county) determines that the certification as to delinquent taxes required by this agreement is fraudulent, _____ (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(8) " _____ (insert name of enterprise) shall provide to the proper tax incentive review council any information reasonably required by the council to evaluate the enterprise's compliance with the agreement, including returns or annual reports filed pursuant to section 5711.02 or 5727.08 of the Ohio Revised Code if requested by the council."

(9) " _____ (insert name of enterprise) and _____ (insert name of municipal corporation or county) acknowledge that this agreement must be approved by formal action of the legislative authority of _____ (insert name of municipal corporation or county) as a condition for the agreement to take effect. This agreement takes effect upon such approval."

(10) "This agreement is not transferable or assignable without the express, written approval of _____ (insert name of municipal corporation or county)."

(11) "Exemptions from taxation granted under this agreement shall be revoked if it is determined that _____ (insert name of enterprise), any successor enterprise, or any related member (as those terms are defined in section 5709.61 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under division (E) of section 3735.671 or section 5709.62, 5709.63, or 5709.632 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections."

(12) "In any three-year period during which this agreement is in effect, if the actual number of employee positions created or retained by (insert name of enterprise) is not equal to or greater than seventy-five per cent of the number of employee positions estimated to be created or retained under this agreement during that three-year period, (insert name of enterprise) shall repay the amount of taxes on property that would have been payable had the property not been exempted from taxation under this agreement during that three-year period. In addition, the (insert name of municipal corporation or county) may terminate or modify the exemptions from taxation granted under this agreement."

(13) If the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier, both of the following:

(a) A requirement that the enterprise annually certify to the legislative authority whether the megaproject operator or megaproject supplier, as applicable, holds a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year;

(b) A provision authorizing the legislative authority to terminate the exemption for current and subsequent tax years if the megaproject operator or megaproject supplier, as applicable, does not hold a certificate issued under division (D)(7) of section 122.17 of the Revised Code on the first day of the current tax year.

The statement described in division (B)(7) of this section may include the following statement, appended at the end of the statement: "and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement." If the agreement includes a statement requiring repayment of exempted taxes, it also may authorize the legislative authority to secure repayment of such taxes by a lien on the exempted property in the amount required to be repaid. Such a lien on exempted real property shall attach, and may be perfected, collected, and enforced, in the same manner as a mortgage lien on real property, and shall otherwise have the same force and effect as a mortgage lien on real property. Notwithstanding section 5719.01 of the

Revised Code, such a lien on exempted tangible personal property shall attach, and may be perfected, collected, and enforced, in the same manner as a security interest in goods under Chapter 1309. of the Revised Code, and shall otherwise have the same force and effect as such a security interest.

(C) If the director of development had to issue a waiver under section 5709.633 of the Revised Code as a condition for the agreement to be executed, the agreement shall include the following statement:

"Continuation of this agreement is subject to the validity of the circumstance upon which _____ (insert name of enterprise) applied for, and the Director of the Ohio Department of Development issued, the waiver pursuant to section 5709.633 of the Ohio Revised Code. If, after formal approval of this agreement by _____ (insert name of municipal corporation or county), the Director or _____ (insert name of municipal corporation or county) discovers that such a circumstance did not exist, _____ (insert name of enterprise) shall be deemed to have materially failed to comply with this agreement."

If the director issued a waiver on the basis of the circumstance described in division (B)(3) of section 5709.633 of the Ohio Revised Code, the conditions enumerated in divisions (B)(3)(a)(i) and (ii) or divisions (B)(3)(b)(i) and (ii) of that section shall be incorporated in the information described in divisions (A)(2), (3), and (4) of this section.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development services for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or

board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an

agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in ~~division (C)(1), (2), and (3)~~ of section 5709.62 of the Revised Code, subject to division (D) of that section, or for the incentive provided in division (C)(4) of that section if the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), and (B)(2), and ~~(B)(3)~~ of section 5709.63 of the Revised Code, subject to division (C) of that section, or for the incentive provided in division (B)(3) of that section if the enterprise is the owner of real property constituting the site of a megaproject or is a megaproject supplier.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development services revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.91. (A) Service payments in lieu of taxes required under sections 725.04, 5709.42, 5709.46, 5709.74, and 5709.79 of the Revised Code, minimum service payment obligations, and service charges in lieu of taxes required under sections 1728.11 and 1728.111 of the Revised Code, shall be treated in the same manner as taxes, as defined in section 323.01 of the Revised Code, for all purposes of the lien described in section 323.11 of the Revised Code, including, but not limited to, the priority and enforcement of the lien and the collection of the service payments, minimum service payment obligations, or service charges secured by the lien. ~~For~~

(B) Any covenant or agreement in an instrument whereby a property owner agrees to a minimum service payment obligation shall be a covenant running with the land. Upon the proper recording of the instrument with the county recorder, the covenant is fully binding on behalf of and enforceable by

the county, township, or municipal corporation against the property owner and any person acquiring an interest in the land and all successors and assigns. If any such minimum service payment obligation becomes delinquent according to such covenant or agreement, the county, township, or municipal corporation may enforce the delinquent minimum service payment obligation in the manner provided under division (A) of this section or in the manner otherwise provided in the instrument. A minimum service payment obligation is an insurable interest with respect to title insurance under Chapter 3953. of the Revised Code.

(C) A county, township, or municipal corporation may certify a minimum service payment obligation that is a covenant under division (B) of this section to the county auditor, who shall enter the obligation on the tax list of real property opposite the parcel against which it is charged, and certify the minimum service payment obligation to the county treasurer. An unpaid minimum service payment obligation is a lien on property against which it is charged from the date the obligation is entered on the tax list, and shall be collected in the manner provided for collection of real property taxes. Once the minimum service payment obligation is collected, it shall be paid immediately to the county, township, or municipal corporation.

(D) For the purposes of this section, a "minimum service payment obligation" is an obligation, including a contingent obligation, for a ~~person~~ property owner to make a payment to a county, township, or municipal corporation ~~to ensure sufficient funds to finance public infrastructure improvements or, if applicable, housing renovations,~~ pursuant to an agreement between ~~that person~~ the property owner and the county, township, or municipal corporation ~~for the purposes of to ensure sufficient funds to finance the expenditures authorized under sections 725.04, 1728.11, 1728.111, 5709.40 to 5709.43, 5709.45 to 5709.47, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code. "Minimum service payment obligation" does not include service payments in lieu of taxes required under section 725.04, 5709.42, 5709.46, 5709.74, or 5709.79 of the Revised Code or service charges in lieu of taxes required under section 1728.11 or 1728.111 of the Revised Code."~~

In line 76, after "Code" insert ", and "interim period" means, for each county, the tax year to which section 5715.24 of the Revised Code applies and each subsequent tax year until the tax year in which that section applies again"

In line 107, after "spouse;" insert "a tenant of the property owner, if the property is classified as to use for tax purposes as commercial or industrial, the lease requires the tenant to pay the entire amount of taxes charged against the property, and the lease allows, or the property owner otherwise authorizes, the tenant to file such a complaint with respect to the property;"; after the second "person" insert "or tenant"

In line 116, after the first "person" insert "or tenant"; after the second "person" insert "or tenant"

In line 119, after the first "person" insert "or tenant"; after the second "person" insert "or tenant"

In line 136, strike through "As used in division (A)(2) of this section, "interim"

Strike through lines 137 through 139

In line 295, after "spouse;" insert "a tenant of the owner, if that tenant would be eligible to file a complaint under division (A) of this section with respect to the property;"

In line 296, after "owner" insert "or tenant"

In line 304, strike through "a person" and insert "an owner or tenant"

In line 305, strike through "property"; after "owner" insert "or tenant"

In line 308, strike through "property"; after "owner" insert "or tenant"

In line 314, strike through "or the" and insert ","; after "owner" insert ", or tenant"

In line 316, after "owner" insert "or tenant"

In line 332, delete "property owner's"

In line 367, strike through "until" and insert "occurring in the same interim period in which the complaint is filed and beginning before"

In line 382, strike through "until" and insert "occurring in the same interim period in which the complaint is filed and beginning before"

In line 383, strike through "upon" and insert "before"; after "any" insert "determination on an"

After line 463, insert:

"(6) "Interim period" means, for each county, the tax year to which section 5715.24 of the Revised Code applies and each subsequent tax year until the tax year in which that section applies again.

Sec. 5733.41. The purpose of the tax imposed by this section is to complement and to reinforce the tax imposed under section 5733.06 of the Revised Code.

For the same purposes for which the tax is levied under section 5733.06 of the Revised Code, there is hereby levied a tax on every qualifying pass-through entity having at least one qualifying investor that is not an individual. The tax imposed by this section is imposed on the sum of the adjusted qualifying amounts of the qualifying pass-through entity's qualifying investors, that are ~~not neither individuals as follows: for qualifying investors~~ nor subject to division (G)(2) of section 5733.01 of the Revised Code, ~~at six~~

and eight-tenths per cent for the entity's taxable year ending in 2005, at five and one-tenth per cent for the entity's taxable year ending in 2006, at three and four-tenths per cent for the entity's taxable year ending in 2007, at one and seven-tenths per cent for the entity's taxable year ending in 2008, and at zero per cent for the entity's taxable year ending in 2009 or in subsequent years; and for all other qualifying investors that are not individuals, at the a rate of eight and one-half per cent equal to the tax rate imposed on taxable business income under division (A)(4)(a) of section 5747.02 of the Revised Code.

The tax imposed by this section applies only if the qualifying entity has nexus with this state under the Constitution of the United States for any portion of the qualifying entity's qualifying taxable year, and the sum of the qualifying entity's adjusted qualifying amounts exceeds one thousand dollars for the qualifying entity's qualifying taxable year. This section does not apply to a pass-through entity if all of the partners, shareholders, members, or investors of the pass-through entity are taxpayers for the purposes of section 5733.04 of the Revised Code without regard to section 5733.09 of the Revised Code for the entire qualifying taxable year of the pass-through entity.

If, prior to the due date of the return, a qualifying pass-through entity receives from an investor a written representation, under penalties of perjury, that the investor is described in division (I)(1), (2), (6), (7), (8), or (9) of section 5733.40 of the Revised Code for the qualifying pass-through entity's entire qualifying taxable year, the qualifying pass-through entity is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that investor for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that investor for that qualifying taxable year.

If, prior to the due date of the return, a qualifying trust receives from a beneficiary of that trust a written representation, under penalties of perjury, that the beneficiary is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for the qualifying trust's entire qualifying taxable year, the qualifying trust is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that beneficiary for that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or estimated taxes with respect to that beneficiary for that qualifying taxable year.

The tax commissioner may adopt rules for the purpose of the tax levied by this section or section 5747.41 of the Revised Code, including a rule defining "qualifying investor" or "qualifying beneficiary," and a rule requiring or permitting a qualifying entity to combine its income with related members and to pay the tax and estimated tax on a combined basis.

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the Revised Code apply to a qualifying entity subject to the tax imposed under this section.

The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Revised Code from levying a tax on income.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and three-fourths per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

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 magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6)(a) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(b) Sales of motor fuel other than that described in division (B)(6)(a) of this section and used for powering a refrigeration unit on a vehicle other than one used primarily to provide comfort to the operator or occupants of the vehicle.

(7) Sales of natural gas by a natural gas company or municipal gas utility, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph

company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution or laws of the United States or the Constitution of this state;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering

one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose

purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; building and construction materials for incorporation into a transportation facility pursuant to a public-private agreement entered into under sections 5501.70 to 5501.83 of the Revised Code; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a), (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or

floriculture, of tangible personal property for use or consumption primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing,

preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; and of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section;

(c) Sales of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(d) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture

structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales of tangible personal property that is not required to be registered or licensed under the laws of this state to a citizen of a foreign nation that is not a citizen of the United States, provided the property is delivered to a person in this state that is not a related member of the purchaser, is physically present in this state for the sole purpose of temporary storage and package consolidation, and is subsequently delivered to the purchaser at a delivery address in a foreign nation. As used in division (B)(38) of this section, "related member" has the same meaning as in section 5733.042 of the Revised Code, and "temporary storage" means the storage of tangible personal property for a period of not more than sixty days.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing,

assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, or directly in the rendition of a public utility service, except that the sales tax levied by this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. 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.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(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.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, 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 section, the "thing transferred" includes, but is not limited to, any of the following:

(I) Services provided in the construction of permanent access roads, services provided in the construction of the well site, and services provided in

the construction of temporary impoundments;

(II) Equipment and rigging used for the specific purpose of creating with integrity a wellbore pathway to underground reservoirs;

(III) Drilling and workover services used to work within a subsurface wellbore, and tangible personal property directly used in providing such services;

(IV) Casing, tubulars, and float and centralizing equipment;

(V) Trailers to which production equipment is attached;

(VI) Well completion services, including cementing of casing, and tangible personal property directly used in providing such services;

(VII) Wireline evaluation, mud logging, and perforation services, and tangible personal property directly used in providing such services;

(VIII) Reservoir stimulation, hydraulic fracturing, and acidizing services, and tangible personal property directly used in providing such services, including all material pumped downhole;

(IX) Pressure pumping equipment;

(X) Artificial lift systems equipment;

(XI) Wellhead equipment and well site equipment used to separate, stabilize, and control hydrocarbon phases and produced water;

(XII) Tangible personal property directly used to control production equipment.

(ii) For the purposes of division (B)(42)(q) of this section, the "thing transferred" does not include any of the following:

(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;

(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;

(III) Tangible personal property used primarily in preparing, installing, or reclaiming foundations for drilling or pumping equipment or well stimulation material tanks;

(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;

(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;

- (VI) Tangible personal property that is to be incorporated into a structure or improvement to real property;
- (VII) Well site fencing, lighting, or security systems;
- (VIII) Communication devices or services;
- (IX) Office supplies;
- (X) Trailers used as offices or lodging;
- (XI) Motor vehicles of any kind;
- (XII) Tangible personal property used primarily for the storage of drilling byproducts and fuel not used for production;
- (XIII) Tangible personal property used primarily as a safety device;
- (XIV) Data collection or monitoring devices;
- (XV) Access ladders, stairs, or platforms attached to storage tanks.

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.

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.

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.

(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 or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-

time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48) Sales of feminine hygiene products.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and JobsOhio in accordance with section 4313.02 of the Revised Code.

(52)(a) Sales to a qualifying corporation.

(b) As used in division (B)(52) of this section:

(i) "Qualifying corporation" means a nonprofit corporation organized in this state that leases from an eligible county land, buildings, structures, fixtures, and improvements to the land that are part of or used in a public recreational facility used by a major league professional athletic team or a class A to class AAA minor league affiliate of a major league professional athletic team for a significant portion of the team's home schedule, provided the following apply:

(I) The facility is leased from the eligible county pursuant to a lease that requires substantially all of the revenue from the operation of the business or activity conducted by the nonprofit corporation at the facility in excess of operating costs, capital expenditures, and reserves to be paid to the eligible county at least once per calendar year.

(II) Upon dissolution and liquidation of the nonprofit corporation, all of its net assets are distributable to the board of commissioners of the eligible county from which the corporation leases the facility.

(ii) "Eligible county" has the same meaning as in section 307.695 of the Revised Code.

(53) Sales to or by a cable service provider, video service provider, or radio or television broadcast station regulated by the federal government of cable service or programming, video service or programming, audio service or programming, or electronically transferred digital audiovisual or audio work. As used in division (B)(53) of this section, "cable service" and "cable service provider" have the same meanings as in section 1332.01 of the Revised Code, and "video service," "video service provider," and "video programming" have the same meanings as in section 1332.21 of the Revised Code.

(54) Sales of a digital audio work electronically transferred for delivery through use of a machine, such as a juke box, that does all of the following:

(a) Accepts direct payments to operate;

(b) Automatically plays a selected digital audio work for a single play upon receipt of a payment described in division (B)(54)(a) of this section;

(c) Operates exclusively for the purpose of playing digital audio works in a commercial establishment.

(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:

(i) An item of clothing, the price of which is seventy-five dollars or less;

(ii) An item of school supplies, the price of which is twenty dollars or less;

(iii) An item of school instructional material, the price of which is twenty dollars or less.

(b) As used in division (B)(55) of this section:

(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 sold separately; sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

(ii) "School supplies" means items commonly used by a student in a course of study. "School supplies" includes only the following items: binders; book bags; calculators; cellophane tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable, pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens; protractors; rulers; scissors; and writing tablets. "School supplies" does not include any item purchased for use in a trade or business.

(iii) "School instructional material" means written material commonly used by a student in a course of study as a reference and to learn the subject being taught. "School instructional material" includes only the following items: reference books, reference maps and globes, textbooks, and workbooks. "School instructional material" does not include any material purchased for use in a trade or business.

(56)(a) Sales of diapers or incontinence underpads sold pursuant to a prescription, for the benefit of a medicaid recipient with a diagnosis of incontinence, and by a medicaid provider that maintains a valid provider agreement under section 5164.30 of the Revised Code with the department of medicaid, provided that the medicaid program covers diapers or incontinence underpads as an incontinence garment.

(b) As used in division (B)(56)(a) of this section:

(i) "Diaper" means an absorbent garment worn by humans who are incapable of, or have difficulty, controlling their bladder or bowel movements.

(ii) "Incontinence underpad" means an absorbent product, not worn on the body, designed to protect furniture or other tangible personal property from soiling or damage due to human incontinence.

(57) Sales of investment metal bullion and investment coins.

"Investment metal bullion" means any bullion described in section 408(m)(3) (B) of the Internal Revenue Code, regardless of whether that bullion is in the

physical possession of a trustee. "Investment coin" means any coin composed primarily of gold, silver, platinum, or palladium.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5741.02. (A)(1) For the use of the general revenue fund of the state, an excise tax is hereby levied on the storage, use, or other consumption in this state of tangible personal property or the benefit realized in this state of any service provided. The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and three-fourths per cent.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the seller at the time the lease or rental is consummated and shall be calculated by the seller on the basis of the total amount to be paid by the lessee or renter under the lease or rental agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the seller at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the seller on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in the case of a transaction, the price of which consists in whole or part of the lease or rental of tangible personal property, the tax shall be measured by the

installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in this state tangible personal property or realizing in this state the benefit of any service provided, shall be liable for the tax, and such liability shall not be extinguished until the tax has been paid to this state; provided, that the consumer shall be relieved from further liability for the tax if the tax has been paid to a seller in accordance with section 5741.04 of the Revised Code or prepaid by the seller in accordance with section 5741.06 of the Revised Code.

(C) The tax does not apply to the storage, use, or consumption in this state of the following described tangible personal property or services, nor to the storage, use, or consumption or benefit in this state of tangible personal property or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is subject to the excise tax imposed by sections 5739.01 to 5739.31 of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section, tangible personal property or services, the acquisition of which, if made in Ohio, would be a sale not subject to the tax imposed by sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other consumption of or benefit from which this state is prohibited from taxing by the Constitution of the United States, laws of the United States, or the Constitution of this state. This exemption shall not exempt from the application of the tax imposed by this section the storage, use, or consumption of tangible personal property that was purchased in interstate commerce, but that has come to rest in this state, provided that fuel to be used or transported in carrying on interstate commerce that is stopped within this state pending transfer from one conveyance to another is exempt from the excise tax imposed by this section and section 5739.02 of the Revised Code;

(4) Transient use of tangible personal property in this state by a nonresident tourist or vacationer, or a nonbusiness use within this state by a nonresident of this state, if the property so used was purchased outside this state for use outside this state and is not required to be registered or licensed under the laws of this state;

(5) Tangible personal property or services rendered, upon which taxes have been paid to another jurisdiction to the extent of the amount of the tax paid to such other jurisdiction. Where the amount of the tax imposed by this section and imposed pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code exceeds the amount paid to another jurisdiction, the difference shall be allocated between the tax imposed by this section and any tax imposed by a county or a transit authority pursuant to section 5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion to the respective

rates of such taxes.

As used in this subdivision, "taxes paid to another jurisdiction" means the total amount of retail sales or use tax or similar tax based upon the sale, purchase, or use of tangible personal property or services rendered legally, levied by and paid to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment.

(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner;

(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer.

(9) Tangible personal property held for sale by a person but not for that person's own use and donated by that person, without charge or other compensation, to either of the following:

(a) A nonprofit organization operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; or

(b) This state or any political subdivision of this state, but only if donated for exclusively public purposes.

For the purposes of division (C)(9) of this section, "charitable purposes" has the same meaning as in division (B)(12) of section 5739.02 of the Revised Code.

(10) Equipment stored, used, or otherwise consumed in this state by an out-of-state disaster business during a disaster response period during which the business conducts disaster work pursuant to a qualifying solicitation received by the business, provided the equipment is removed from the state before the last day of that period. All terms used in division (C)(10)

of this section have the same meanings as in section 5703.94 of the Revised Code.

(11)(a) Watercraft, if all of the following apply:

(i) The watercraft is in this state only for storage and maintenance purposes.

(ii) The watercraft is not used or stored in this state between the first day of May and the last day of September of any year.

(iii) The watercraft is not required to be registered in this state under section 1547.54 of the Revised Code.

(iv) The owner paid taxes to another jurisdiction on the sale, use, or consumption of the watercraft or paid sales tax on the watercraft under section 5739.027 of the Revised Code, unless the watercraft is used and titled or registered in a jurisdiction that does not impose a sales or use tax or similar excise tax on the ownership or use of the watercraft.

(b) As used in division (C)(11) of this section:

(i) "Taxes paid to another jurisdiction" has the same meaning as in division (C)(5) of this section.

(ii) "Maintenance" means any act to preserve or improve the condition or efficiency of a watercraft including cleaning and repairing the watercraft and installing equipment, fixtures, or technology in or on the watercraft.

(c) Nothing in division (C)(11) of this section exempts sales of storage of watercraft taxable under division (B)(9) of section 5739.01 of the Revised Code or sales of repair or installation of tangible personal property in or on the watercraft taxable under division (B)(3)(a) or (b) of that section.

(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner.

(E)(1)(a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as the tax commissioner prescribes.

(b) A seller that obtains a fully completed exemption certificate from

a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the following:

(i) A seller that fraudulently fails to collect tax;

(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state;

(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (D) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software.

(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.

(3) If no certificate is provided or obtained within ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. Failure to have so provided or obtained a certificate shall not preclude a seller, within one hundred twenty days after the tax commissioner gives written notice of intent to levy an assessment, from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate.

(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certification shall be in such form as the tax commissioner prescribes.

(F) A seller who files a petition for reassessment contesting the assessment of tax on transactions for which the seller obtained no valid exemption certificates, and for which the seller failed to establish that the

transactions were not subject to the tax during the one-hundred-twenty-day period allowed under division (E) of this section, may present to the tax commissioner additional evidence to prove that the transactions were exempt. The seller shall file such evidence within ninety days of the receipt by the seller of the notice of assessment, except that, upon application and for reasonable cause, the tax commissioner may extend the period for submitting such evidence thirty days.

(G) For the purpose of the proper administration of sections 5741.01 to 5741.22 of the Revised Code, and to prevent the evasion of the tax hereby levied, it shall be presumed that any use, storage, or other consumption of tangible personal property in this state is subject to the tax until the contrary is established.

(H) The tax collected by the seller from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional use tax pursuant to section 5741.021 or 5741.023 of the Revised Code and of transit authorities levying an additional use tax pursuant to section 5741.022 of the Revised Code. Except for the discount authorized under section 5741.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection of such tax.

Sec. 5747.41. For the same purposes for which the tax is levied under section 5747.02 of the Revised Code, there is hereby levied a withholding tax on every qualifying pass-through entity having at least one qualifying investor who is an individual and on every qualifying trust having at least one qualifying beneficiary who is an individual. The withholding tax imposed by this section is imposed on the sum of the adjusted qualifying amounts of a qualifying pass-through entity's qualifying investors who are individuals and on the sum of the adjusted qualifying amounts of a qualifying trust's qualifying beneficiaries, at the a rate of five per cent of that sum equal to the tax rate imposed on taxable business income under division (A)(4)(a) of section 5747.02 of the Revised Code.

The tax imposed by this section applies only if the qualifying entity has nexus with this state under the Constitution of the United States for any portion of the qualifying entity's qualifying taxable year, and the sum of the qualifying entity's adjusted qualifying amounts exceeds one thousand dollars for the qualifying entity's qualifying taxable year.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint

ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5726.01 of the

Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A person directly or indirectly owned by one or more financial institutions, as defined in section 5726.01 of the Revised Code, that paid the tax imposed by section 5726.02 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter.

For the purposes of division (E)(4) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization.

(5) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code, or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(6) A person that solely facilitates or services one or more securitizations of phase-in-recovery property pursuant to a final financing order as those terms are defined in section 4928.23 of the Revised Code. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(7) Except as otherwise provided in this division, a pre-income tax trust as defined in section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a

qualifying pre-income tax trust election under division (EE) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(8) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible

personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(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;

(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;

(n) Pension reversions;

(o) Contributions to capital;

(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;

(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 any person on or for such cigarettes, tobacco products, or vapor products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale, transfer, exchange, or other disposition of motor fuel as "motor fuel" is defined in section 5736.01 of the Revised Code, an amount equal to the value of the motor fuel, including federal and state motor fuel excise taxes and receipts from billing or invoicing the tax imposed under section 5736.02 of the Revised Code to another person;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts as determined under section 5751.40 of the Revised Code.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to a transfer agreement or to the

enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg) 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.

(kk) In the case of a railroad company described in division (D)(9) of section 5727.01 of the Revised Code that purchases dyed diesel fuel directly from a supplier as defined by section 5736.01 of the Revised Code, an amount equal to the product of the number of gallons of dyed diesel fuel purchased directly from such a supplier multiplied by the average wholesale price for a gallon of diesel fuel as determined under section 5736.02 of the Revised Code for the period during which the fuel was purchased multiplied by a fraction, the numerator of which equals the rate of tax levied by section 5736.02 of the Revised Code less the rate of tax computed in section 5751.03 of the Revised Code, and the denominator of which equals the rate of tax computed in section 5751.03 of the Revised Code.

(ll) Receipts realized by an out-of-state disaster business from disaster work conducted in this state during a disaster response period pursuant to a qualifying solicitation received by the business. Terms used in division (F)(2)(ll) of this section have the same meanings as in section 5703.94 of the Revised Code.

(mm) Receipts of a megaproject supplier that holds a certificate issued under division (D)(7) of section 122.17 of the Revised Code from sales of tangible personal property directly to a megaproject operator in this state.

(nn) Any receipts for which the tax imposed by this chapter is prohibited by the constitution or laws of the United States or the constitution of this state.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained 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 dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least

twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

- (1) A person receiving a fee to sell financial instruments;
- (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;
- (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;
- (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;
- (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(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.

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

In line 464, after "sections" insert "107.03, 122.17, 3735.65, 3735.67, 3735.671, 5703.48, 5703.95, 5709.121,"; after "5709.17" insert ", 5709.61, 5709.62, 5709.63, 5709.631, 5709.632, 5709.91"; delete "and" and insert ","; after "5715.19" insert ", 5733.41, 5739.02, 5741.02, 5747.41, and 5751.01"

After line 472, insert:

"The amendment by this act of sections 5733.41 and 5747.41 of the Revised Code applies to qualifying taxable years beginning on or after January 1, 2023.

The amendment by this act of sections 5739.02 and 5741.02 of the Revised Code applies beginning the first day of the first month beginning on or after the effective date of this act.

The amendment by this act of section 5709.121 of the Revised Code applies to tax year 2020 and every tax year thereafter, as well as to any tax year at issue in an application for exemption from taxation or any appeal from such an application pending before the Tax Commissioner, the Board of Tax Appeals, any court of common pleas or court of appeals, or the Supreme Court on the effective date of that amendment and to the property that is the subject of any such application or appeal. That amendment is remedial in nature and the purpose thereof is to clarify the intent of the General Assembly that real property described in division (F) of section 5709.121 of the Revised Code, as amended by this act, is exempt from taxation.

Section 4. The amendment by this act of section 5709.91 of the Revised Code applies to any proceedings commenced or instruments recorded after the amendment's effective date, and, so far as the amendment supports the actions taken, also applies to proceedings that on its effective date are pending, in progress, or completed, or instruments that have previously been recorded, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior resolution, ordinance, order, advertisement, notice, instrument, or other proceeding. Any proceedings pending or in progress on the effective date of the amendment shall be deemed to have been taken in conformity with the amendment.

The authority provided in the amendment by this act of section 5709.91 of the Revised Code provides additional and supplemental provisions for the subject matter that may also be the subject of other laws, and is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by the Ohio Constitution, or any other law, including

laws amended by this act, or any charter, order, resolution, or ordinance, and no inference shall be drawn to negate the authority thereunder by reason of express provisions contained in the amendment by this act of section 5709.91 of the Revised Code.

Section 5. Pursuant to division (G) of section 5703.95 of the Revised Code, which states that any bill introduced in the House of Representatives or the Senate that proposes to enact or modify one or more tax expenditures should include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification:

The objective of this act in amending section 5741.02 of the Revised Code is to increase business to Ohio's marine industry by removing a disincentive for out-of-state boat owners from coming into Ohio with their business.

Currently, subjecting boats to use taxes on the value of the boat has resulted in out-of-state boats going elsewhere for winter storage, repair, and refitting work. The charge for winter storage notwithstanding, most winter work orders from customers are estimated to range from fifteen thousand dollars to one hundred thousand dollars. The loss of even one major job, never mind several, could mean the success or failure of a marine business.

The state of Ohio also suffers significant losses. Virtually everything related to winter storage and work is subject to sales tax, including parts, materials, labor, and storage. When a boat is not winter-stored in Ohio, there are not only no related sales taxes collected, but also no commercial activity taxes and no income taxes."

The question being, "Shall the amendment be agreed to?"

The motion to amend was agreed to.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 75**, pass?"

The yeas and nays were taken and resulted – yeas 21, nays 10, as follows:

Those who voted in the affirmative were: Senators

Blessing	Brenner	Burke	Coley
Eklund	Gavarone	Hackett	Hoagland
Hottinger	Huffman, M.	Huffman, S.	Johnson
Kunze	Manning	McColley	Peterson
Roegner	Schaffer	Schuring	Wilson
			Obhof-21

Those who voted in the negative were: Senators

Antonio	Craig	Dolan	Fedor
Lehner	Maharath	O'Brien	Sykes
Thomas			Williams-10

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Manning moved to amend the title as follows:

Add the names: "Senators Brenner, Coley, Eklund, Huffman, M., McColley, Schaffer."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

On the motion of Senator Peterson, the Senate adjourned until Wednesday, December 23, 2020 at 9:30 a.m.

Attest:

VINCENT L. KEERAN,
Clerk.