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134th General Assembly

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Sub. S. B. No. 33

Senators Hottinger, Brenner

**Cosponsors: Senators Wilson, Lang, Roegner, Yuko, Fedor, Dolan, Antonio, Cirino, Craig, Gavarone, Hackett, Hicks-Hudson, Huffman, S., Johnson, Maharath, Manning, Martin, Peterson, Reineke, Romanchuk, Rulli, Sykes, Thomas
Representatives Merrin, Young, T., Cross, Fraizer, Gross, Johnson, Riedel**

A BILL

To amend sections 3735.65, 3735.66, 3735.671, 1
3735.672, 3735.673, 3735.68, 3735.69, 5709.631, 2
5709.82, 5709.85, 5747.01, 5747.10, and 5747.70 3
of the Revised Code to modify the law governing 4
community reinvestment areas and to expand the 5
income tax deduction allowed for contributions 6
to Ohio's 529 education savings plans to include 7
contributions to 529 plans established by other 8
states. 9

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

Section 1. That sections 3735.65, 3735.66, 3735.671, 10
3735.672, 3735.673, 3735.68, 3735.69, 5709.631, 5709.82, 11
5709.85, 5747.01, 5747.10, and 5747.70 of the Revised Code be 12
amended to read as follows: 13

Sec. 3735.65. As used in sections 3735.65 to 3735.70 of 14
the Revised Code: 15

(A) "Housing officer" means an officer or agency of a 16

~~municipal corporation or county political subdivision~~ designated 17
by the legislative authority of the ~~municipal corporation or~~ 18
~~county political subdivision~~, pursuant to section 3735.66 of the 19
Revised Code, for each community reinvestment area to administer 20
sections 3735.65 to 3735.69 of the Revised Code. One officer or 21
agency may be designated as the housing officer for more than 22
one community reinvestment area. 23

(B) "Community reinvestment area" means an area ~~within a~~ 24
~~municipal corporation or unincorporated area of a county for~~ 25
which the legislative authority of ~~the municipal corporation or,~~ 26
~~for the unincorporated area, of the county, a political~~ 27
subdivision has adopted a resolution under section 3735.66 of 28
the Revised Code describing the boundaries of the area and 29
containing a statement of finding that the area included in the 30
description is one in which housing facilities or structures of 31
historical significance are located and new housing construction 32
and repair of existing facilities or structures are discouraged. 33

(C) "Remodeling" means any change made in a structure for 34
the purpose of making it structurally more sound, more 35
habitable, or for the purpose of improving its appearance. 36

(D) "Structure of historical or architectural 37
significance" means those designated as such by resolution of 38
the legislative authority of a ~~municipal corporation, for those~~ 39
~~located in a municipal corporation, or the county, for those~~ 40
~~located in the unincorporated area of the county political~~ 41
subdivision based on age, rarity, architectural quality, or 42
because of a previous designation by a historical society, 43
association, or agency. 44

(E) "Megaproject," "megaproject operator," and 45
"megaproject supplier" have the same meanings as in section 46

122.17 of the Revised Code. 47

(F) "Political subdivision" means a county, a municipal corporation, or a limited home rule township. 48
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(G) "Legislative authority" means a board of county commissioners of a county, a legislative authority of a municipal corporation, or a board of trustees of a limited home rule township. 50
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(H) "Limited home rule township" means a township that has adopted a limited home rule government under Chapter 504. of the Revised Code. 54
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Sec. 3735.66. The legislative ~~authorities~~ authority of ~~municipal corporations and counties~~ a political subdivision may survey the housing within ~~their jurisdictions~~ the municipal corporation in the case of a municipal corporation, the unincorporated area of the township in the case of a limited home rule township, and, after the unincorporated area of the county in the case of a county. After the survey, the legislative authority may adopt ~~resolutions~~ a resolution describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of 57
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section 3735.67 of the Revised Code are eligible for exemption 77
from taxation regardless of classification. Whether or not the 78
resolution includes such a stipulation, the classification of 79
the structures or remodeling eligible for exemption in the area 80
shall at all times be consistent with zoning restrictions 81
applicable to the area. For the purposes of sections 3735.65 to 82
3735.70 of the Revised Code, whether a structure or remodeling 83
composed of multiple units is classified as commercial or 84
residential shall be determined by resolution or ordinance of 85
the legislative authority or, in the absence of such a 86
determination, by the classification of the use of the structure 87
or remodeling under the applicable zoning regulations. 88

If construction or remodeling classified as residential is 89
eligible for exemption from taxation, the resolution shall 90
specify a percentage, not to exceed one hundred per cent, of the 91
assessed valuation of such property to be exempted. The 92
percentage specified shall apply to all residential construction 93
or remodeling for which exemption is granted. 94

Territory of a community reinvestment area designated by a 95
municipal corporation shall include only territory of the 96
municipal corporation. Territory of an area designated by a 97
limited home rule township shall include only unincorporated 98
territory of the township that is not already included in an 99
area designated by a county. Territory of an area designated by 100
a county shall include only unincorporated territory of the 101
county that is not already included in an area designated by a 102
limited home rule township. 103

Upon the adoption of the resolution, the legislative 104
authority shall send, by certified mail, one copy of the 105
resolution and a map of the community reinvestment area in 106

sufficient detail to denote the specific boundaries of the area, 107
to the director of development. 108

The resolution adopted pursuant to this section shall be 109
published in a newspaper of general circulation in the ~~municipal~~ 110
~~corporation, if the resolution is adopted by the legislative~~ 111
~~authority of a municipal corporation, or in a newspaper of~~ 112
~~general circulation in the county, if the resolution is adopted~~ 113
~~by the legislative authority of the county, political~~ 114
subdivision that adopted the resolution once a week for two 115
consecutive weeks or as provided in section 7.16 of the Revised 116
Code, immediately following its adoption. 117

Each legislative authority adopting a resolution pursuant 118
to this section shall designate a housing officer. ~~In addition,~~ 119
~~each such legislative authority, not later than sixty days after~~ 120
~~the adoption of the resolution, shall petition the director of~~ 121
~~development services for the director to confirm the findings~~ 122
~~described in the resolution. The petition shall be accompanied~~ 123
~~by a copy of the resolution and by a map of the community~~ 124
~~reinvestment area in sufficient detail to denote the specific~~ 125
~~boundaries of the area and to indicate zoning restrictions~~ 126
~~applicable to the area. The director shall determine whether the~~ 127
~~findings contained in the resolution are valid, and whether the~~ 128
~~classification of structures or remodeling eligible for~~ 129
~~exemption under the resolution is consistent with zoning~~ 130
~~restrictions applicable to the area as indicated on the map.~~ 131
~~Within thirty days of receiving the petition, the director shall~~ 132
~~forward the director's determination to the legislative~~ 133
authority. The legislative authority or housing officer shall 134
not grant any exemption from taxation under section 3735.67 of 135
the Revised Code until the director ~~forwards the director's~~ 136
~~determination to the legislative authority. The director shall~~ 137

~~assign~~ assigns to each community reinvestment area a unique 138
designation by which the area shall be identified for purposes 139
of sections 3735.65 to 3735.70 of the Revised Code. 140

~~If zoning restrictions in any part of a community~~ 141
~~reinvestment area are changed at any time after the legislative~~ 142
~~authority petitions the director under this section, the~~ 143
~~legislative authority shall notify the director and shall submit~~ 144
~~a map of the area indicating the new zoning restrictions in the~~ 145
~~area.~~ 146

Sec. 3735.671. (A) If construction or remodeling of 147
commercial or industrial property is to be exempted from 148
taxation pursuant to section 3735.67 of the Revised Code, the 149
legislative authority and the owner of the property, prior to 150
the commencement of construction or remodeling, shall enter into 151
a written agreement, binding on both parties for a period of 152
time that does not end prior to the end of the period of the 153
exemption, that includes all of the information and statements 154
~~prescribed by~~ described in divisions (B)(1) to (8) of this 155
section. Agreements may include terms not ~~prescribed by this~~ 156
~~section~~ described in those divisions or otherwise prescribed by 157
the model agreement adopted by the director of development under 158
division (B) of this section, but such terms shall in no way 159
derogate from the information and statements ~~prescribed by~~ 160
described in divisions (B)(1) to (8) of this section. 161

(1) Except as otherwise provided in division (A)(2) or (3) 162
of this section, an agreement entered into under this section 163
shall not be approved by the legislative authority unless the 164
board of education of the city, local, or exempted village 165
school district within the territory of which the property is or 166
will be located approves the agreement. For the purpose of 167

obtaining such approval, the legislative authority shall certify 168
a copy of the agreement to the board of education not later than 169
forty-five days prior to approving the agreement, excluding 170
Saturday, Sunday, and a legal holiday as defined in section 1.14 171
of the Revised Code. The board of education, by resolution 172
adopted by a majority of the board, shall approve or disapprove 173
the agreement and certify a copy of the resolution to the 174
legislative authority not later than fourteen days prior to the 175
date stipulated by the legislative authority as the date upon 176
which approval of the agreement is to be formally considered by 177
the legislative authority. The board of education may include in 178
the resolution conditions under which the board would approve 179
the agreement. The legislative authority may approve an 180
agreement at any time after the board of education certifies its 181
resolution approving the agreement to the legislative authority, 182
or, if the board approves the agreement conditionally, at any 183
time after the conditions are agreed to by the board and the 184
legislative authority. 185

(2) Approval of an agreement by the board of education is 186
not required under division (A)(1) of this section if, for each 187
tax year the real property is exempted from taxation, the sum of 188
the following quantities, as estimated at or prior to the time 189
the agreement is formally approved by the legislative authority, 190
equals or exceeds ~~fifty-twenty-five~~ per cent of the amount of 191
taxes, as estimated at or prior to that time, that would have 192
been charged and payable that year upon the real property had 193
that property not been exempted from taxation: 194

(a) The amount of taxes charged and payable on any portion 195
of the assessed valuation of the new structure or of the 196
increased assessed valuation of an existing structure after 197
remodeling began that will not be exempted from taxation under 198

the agreement;	199
(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.	200 201 202 203 204 205
(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.	206 207 208 209 210 211 212 213
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.	214 215 216 217 218 219 220
(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 <u>(A) (1) of this section</u> . 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	221 222 223 224 225 226 227 228

authority shall deliver the notice to the board not later than 229
the number of days prior to such execution as prescribed by the 230
board in its resolution. If a board of education adopts a 231
resolution waiving its right to approve agreements or shortening 232
the notification period, the board shall certify a copy of the 233
resolution to the legislative authority. If the board of 234
education rescinds such a resolution, it shall certify notice of 235
the rescission to the legislative authority. 236

(4) If the owner of the property or the legislative 237
authority agree to make any payment to the school district as 238
described in division (A) (2) (c) of this section, the owner or 239
legislative authority shall agree to make payments to the joint 240
vocational school district within which the property is located 241
at the same rate or amount and under the same terms received by 242
the city, local, or exempted village school district. 243

~~(B) Each agreement shall include the following~~ 244
~~information:~~ 245

~~(1) The names of all parties to the agreement;~~ 246

~~(2) A description of the remodeling or construction,~~ 247
~~whether or not to be exempted from taxation, including existing~~ 248
~~or new structure size and cost thereof; the value of machinery,~~ 249
~~equipment, furniture, and fixtures, including an itemization of~~ 250
~~the value of machinery, equipment, furniture, and fixtures used~~ 251
~~at another location in this state prior to the agreement and~~ 252
~~relocated or to be relocated from that location to the property,~~ 253
~~and the value of machinery, equipment, furniture, and fixtures~~ 254
~~at the facility prior to the execution of the agreement; the~~ 255
~~value of inventory at the property, including an itemization of~~ 256
~~the value of inventory held at another location in this state~~ 257
~~prior to the agreement and relocated or to be relocated from~~ 258

~~that location to the property, and the value of inventory held~~ 259
~~at the property prior to the execution of the agreement;~~ 260

~~(3) The scheduled starting and completion dates of~~ 261
~~remodeling or construction of real property or of investments~~ 262
~~made in machinery, equipment, furniture, fixtures, and~~ 263
~~inventory;~~ 264

~~(4) Estimates of the number of employee positions to be~~ 265
~~created each year of the agreement and of the number of employee~~ 266
~~positions retained by the owner due to the remodeling or~~ 267
~~construction, itemized as to the number of full-time, part-time,~~ 268
~~permanent, and temporary positions;~~ 269

~~(5) Estimates of the dollar amount of payroll attributable~~ 270
~~to the positions set forth in division (B)(4) of this section,~~ 271
~~similarly itemized;~~ 272

~~(6) The number of employee positions, if any, at the~~ 273
~~property and at any other location in this state at the time the~~ 274
~~agreement is executed, itemized as to the number of full-time,~~ 275
~~part-time, permanent, and temporary positions.~~ 276

~~(C) Each agreement shall set forth the following~~ 277
~~information and incorporate the following statements:~~ 278

~~(1) A description of real property to be exempted from~~ 279
~~taxation under the agreement, the percentage of the assessed~~ 280
~~valuation of the real property exempted from taxation, and the~~ 281
~~period for which the exemption is granted, accompanied by the~~ 282
~~statement: "The exemption commences the first year for which the~~ 283
~~real property would first be taxable were that property not~~ 284
~~exempted from taxation. No exemption shall commence after~~ 285
~~_____ (insert date) nor extend beyond _____ (insert~~ 286
~~date)."~~ 287

~~(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."~~ 288
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~~(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."~~ 297
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~~(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~~ 314
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~~providing any necessary certificates required in connection with
such exemptions."~~ 319
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~~(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."~~ 321
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~~(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."~~ 329
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~~(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."~~ 336
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~~(8) "This agreement is not transferable or assignable
without the express, written approval of _____ (insert name
of municipal corporation or county)."~~ 342
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~~(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
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~~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."~~ 348
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~~(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."~~ 354
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~~(11) If the agreement relates to a commercial or industrial structure described in division (D) (2) (a) of section 3735.67 of the Revised Code for which the legislative authority has authorized an exemption period of more than fifteen years, both of the following:—~~ 360
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~~(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) (11) of section 122.17 of the Revised Code or whether such certificate has been modified or terminated;—~~ 365
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~~(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 comply with the terms of the agreement or hold a certificate issued under division (D) (11) of section 122.17 of the Revised Code on the first day of the current tax year.—~~ 372
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~~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.~~ 409

~~(E) The director of development shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing the form of a model agreement that a legislative authority may, in its discretion, use as the basis for an agreement to be executed under this section. The model agreement may include any term necessary for the administration and enforcement of such agreements by the director and legislative authority, but must include all of the following:~~ 410
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~~(1) A space to include the description of real property to be exempted from taxation under the agreement and to identify the property's owners;~~ 418
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~~(2) A space to denote the percentage of the assessed valuation of real property exempted from taxation and the period for which the exemption is granted;~~ 421
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~~(3) A statement requiring the owner to pay real property taxes not exempted under the agreement, as required by law, and requiring rescission of the agreement if the owner fails to pay those taxes beginning in and after the year any such taxes are charged;~~ 424
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~~(4) A statement that the owner certifies, at the time the agreement is executed, that the owner does not owe any delinquent property taxes or taxes for which the owner is liable under Chapter 5735., 5739., 5741., 5743., 5747., or 5753. of the Revised Code, or, if such delinquent taxes are owed, that the owner is paying the delinquent taxes pursuant to an undertaking enforceable by the state or an agent or instrumentality thereof, has filed a petition in bankruptcy, or has had a bankruptcy petition filed against the owner;~~ 429
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(5) A statement requiring the owner to provide to the 438
property tax incentive review council any information reasonably 439
required by the council to evaluate the applicant's compliance 440
with the agreement; 441

(6) A statement that the agreement is not transferable or 442
assignable without the approval of the local authority; 443

(7) A statement describing the circumstances under which 444
an agreement may be revoked by the local authority for 445
noncompliance and the manner by which already-received benefits 446
may be recovered; 447

(8) A statement requiring the owner to provide an estimate 448
of the following for each agreement: 449

(a) The number of employment opportunities created due to 450
the remodeling or construction, as well as the payroll 451
attributable to those opportunities; 452

(b) The number of employment opportunities retained due to 453
the remodeling or construction, as well as the payroll 454
attributable to those opportunities. 455

Once the director adopts rules prescribing a model 456
agreement under this division, the model agreement may not be 457
changed unless the director adopts, amends, or rescinds those 458
rules in accordance with Chapter 119. of the Revised Code. 459

(C) If any person that is party to an agreement granting 460
an exemption from taxation discontinues operations at the 461
structure to which that exemption applies prior to the 462
expiration of the term of the agreement, that person, any 463
successor to that person, and any related member shall not enter 464
into an agreement under this section or section 5709.62, 465
5709.63, or 5709.632 of the Revised Code, and no legislative 466

authority shall enter into such an agreement with such a person, 467
successor, or related member, prior to the expiration of ~~five-~~ 468
three years after the person's discontinuation of operations. As 469
used in this division, "successor" means a person to which the 470
assets or equity of another person has been transferred, which 471
transfer resulted in the full or partial nonrecognition of gain 472
or loss, or resulted in a carryover basis, both as determined by 473
rule adopted by the tax commissioner. "Related member" has the 474
same meaning as defined in section 5733.042 of the Revised Code 475
without regard to division (B) of that section. 476

The director of development ~~services~~ shall review all 477
agreements submitted to the director ~~under division (F) of this-~~ 478
~~section under section 3735.672 of the Revised Code~~ for the 479
purpose of enforcing this division. If the director determines 480
there has been a violation of this division, the director shall 481
notify the legislative authority of such violation, and the 482
legislative authority immediately shall revoke the exemption 483
granted under the agreement. 484

~~(F) When an agreement is entered into under this section,~~ 485
~~the legislative authority authorizing the agreement shall-~~ 486
~~forward a copy of the agreement to the director of development-~~ 487
~~services within fifteen days after the agreement is entered-~~ 488
~~into.~~ 489

Sec. 3735.672. (A) On or before the thirty-first day of 490
March each year, a legislative authority that has entered into 491
an agreement with a party under section 3735.671 of the Revised 492
Code shall submit to the director of development ~~services and-~~ 493
~~the board of education of each school district of which a-~~ 494
~~municipal corporation or township to which such an agreement-~~ 495
~~applies is a part~~ a report on all such agreements in effect 496

during the preceding calendar year. The report shall include the 497
following information: 498

(1) ~~The designation, assigned by the director of~~ 499
~~development services, of each total number of community~~ 500
~~reinvestment area within areas designated by the municipal~~ 501
~~corporation or county political subdivision, and the total~~ 502
population of each area according to the most recent data 503
available; 504

(2) ~~The total number of agreements and the number of full-~~ 505
~~time employees subject to those agreements within each area,~~ 506
~~each according to the most recent data available and identified~~ 507
~~and categorized by the appropriate standard industrial code, and~~ 508
~~the rate of unemployment in the municipal corporation or county~~ 509
~~in which the area is located for each year since the area was~~ 510
~~certified;~~ 511

(3) The number of agreements approved and executed during 512
the calendar year for which the report is submitted, the total 513
number of agreements in effect on the thirty-first day of 514
December of the preceding calendar year, the number of 515
agreements that expired during the calendar year for which the 516
report is submitted, and the number of agreements scheduled to 517
expire during the calendar year in which the report is 518
submitted. For each agreement that expired during the calendar 519
year for which the report is submitted, the legislative 520
authority shall include the amount of taxes exempted under the 521
agreement. 522

(4) ~~The number of agreements receiving compliance reviews~~ 523
~~by the tax incentive review council in the municipal corporation~~ 524
~~or county during the calendar year for which the report is~~ 525
~~submitted, including all of the following information:~~ 526

~~(a) The number of agreements the terms of which the party has complied with, indicating separately for each such agreement the value of the real property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, and for the amount of payroll of the party attributable to these employees;~~ 527
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~~(b) The number of agreements the terms of which a party has failed to comply with, indicating separately for each such agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated estimated and actual schedules for hiring new employees, for retaining existing employees, and for the amount of payroll of the enterprise attributable to these employees amounts described in division (B) (8) of section 3735.671 of the Revised Code;~~ 534
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~~(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority, and the number of such recommendations that have not been followed;~~ 542
543
544
545

~~(d) The number of agreements rescinded during the calendar year for which the report is submitted.~~ 546
547

~~(5) The number of parties subject to agreements that expanded within each area, including the number of new employees hired and existing employees retained by that party, and the number of new parties subject to agreements that established within each area, including the number of new employees hired by each party;~~ 548
549
550
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553

~~(6) For each agreement in effect during any part of the preceding year, the number of employees employed by the party at~~ 554
555

~~the property that is the subject of the agreement immediately~~ 556
~~prior to formal approval of the agreement, the number of~~ 557
~~employees employed by the party at that property on the thirty~~ 558
~~first day of December of the preceding year, the payroll of the~~ 559
~~party for the preceding year, the amount of taxes paid on real~~ 560
~~property that was exempted under the agreement, and the amount~~ 561
~~of such taxes that were not paid because of the exemption~~ 562
Any 562
changes to zoning restrictions in any part of a community 563
reinvestment area, including a map of the area indicating the 564
new zoning restrictions in the area; 565

(6) A copy of any agreement approved and executed or 566
amended during the calendar year for which the report is 567
submitted. 568

(B) Upon the failure of a ~~municipal corporation or county~~ 569
~~political subdivision~~ to comply with division (A) of this 570
section: 571

(1) Beginning on the first day of April of the calendar 572
year in which the ~~municipal corporation or county political~~ 573
~~subdivision~~ fails to comply with that division, the ~~municipal~~ 574
~~corporation or county political subdivision~~ shall not enter into 575
any agreements under section 3735.671 of the Revised Code until 576
the ~~municipal corporation or county political subdivision~~ has 577
complied with division (A) of this section. 578

(2) On the first day of each ensuing calendar month until 579
the ~~municipal corporation or county political subdivision~~ 580
complies with that division, the director of development 581
~~services~~ shall either order the proper county auditor to deduct 582
from the next succeeding payment of taxes to the ~~municipal~~ 583
~~corporation or county political subdivision~~ under section 584
321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount 585

equal to five hundred dollars for each calendar month the 586
~~municipal corporation or county political subdivision~~ fails to 587
comply with that division, or order the county auditor to deduct 588
such an amount from the next succeeding payment to the ~~municipal-~~ 589
~~corporation or county political subdivision~~ from the undivided 590
local government fund under section 5747.51 of the Revised Code. 591
At the time such a payment is made, the county auditor shall 592
comply with the director's order by issuing a warrant, drawn on 593
the fund from which such money would have been paid, to the 594
director of development ~~services~~, who shall deposit the warrant 595
into the ~~state community reinvestment area program-~~ 596
~~administration tax incentives operating fund created in division-~~ 597
~~(C) of this by section 122.174 of the Revised Code.~~ 598

(C) ~~The director, by rule, shall establish the state's-~~ 599
~~application fee for applications submitted to a municipal-~~ 600
~~corporation or county to enter into an agreement under section-~~ 601
~~3735.671 of the Revised Code. In establishing the amount of the-~~ 602
~~fee, the director shall consider the state's cost of-~~ 603
~~administering the community reinvestment area program, including-~~ 604
~~the cost of reviewing the reports required under division (A) of-~~ 605
~~this section. The director may change the amount of the fee at-~~ 606
~~such times and in such increments as the director considers-~~ 607
~~necessary. Any municipal corporation or county that receives an-~~ 608
~~application shall collect the application fee and remit the fee-~~ 609
~~for deposit in the state treasury to the credit of the tax-~~ 610
~~incentives operating fund created in section 122.174 of the-~~ 611
~~Revised Code.~~ The department of development shall publish on its 612
web site a list of all community reinvestment areas within the 613
state, with an accompanying display of their geographical 614
boundaries within each political subdivision. The list shall 615
also include, for each community reinvestment area, a copy of 616

the resolution governing that area and any agreement entered 617
into under section 3735.671 of the Revised Code for any 618
commercial or industrial property within the area. This list 619
shall be updated annually. 620

Sec. 3735.673. If a person operating in a ~~county or~~ 621
~~municipal corporation in this state~~ political subdivision 622
intends to relocate or relocates part or all of its operations 623
to another ~~county or municipal corporation in this state~~ 624
political subdivision and has entered into or intends to enter 625
into an agreement under section 3735.671 of the Revised Code 626
with that ~~county or municipal corporation~~ political subdivision, 627
the legislative authority ~~or an officer~~ of the ~~county or~~ 628
~~municipal corporation~~ political subdivision to which that person 629
intends to relocate or relocates shall serve the legislative 630
authority of the ~~county or municipal corporation~~ subdivision 631
from which that person intends to relocate or relocates with 632
notice of the person's intention to relocate, accompanied by a 633
copy of the agreement to be entered into or entered into 634
pursuant to section 3735.671 of the Revised Code and a statement 635
of the person's reasons for relocation. The legislative 636
authority ~~or officer~~ also shall serve such notice on the 637
director of development. In both cases, service shall be by 638
personal service or certified mail, return receipt requested, 639
not later than thirty days prior to the day of the first public 640
meeting at which the agreement is deliberated by the legislative 641
authority of the ~~county or municipal corporation~~ political 642
subdivision to which the person intends to relocate or 643
relocates. With the approval of the director of development, 644
service shall be not later than fifteen days prior to the day of 645
the first public meeting of the legislative authority at which 646
the agreement is deliberated. The legislative authority ~~or~~ 647

~~officer~~ required to serve notice shall seek such approval by 648
applying to the director at the earliest possible time prior to 649
that meeting. The director may approve the later service if the 650
director determines that earlier notice is not possible or would 651
be likely to jeopardize realization of the project. If approval 652
for a later notice is applied for, the legislative authority ~~or~~ 653
~~officer~~ need not serve notice to the director as otherwise 654
required by this section. 655

If the legislative authority ~~or officer~~ required to serve 656
such notice fails to do so as prescribed by this section, the 657
legislative authority shall not enter into an agreement under 658
that section with that person. 659

This section applies only to relocations of operations 660
that result or would result in the reduction of employment or 661
the cessation of operations at a place of business in this 662
state. 663

Sec. 3735.68. The housing officer shall make annual 664
inspections of the properties within the community reinvestment 665
area upon which are located structures or remodeling for which 666
an exemption has been granted under section 3735.67 of the 667
Revised Code. If the housing officer finds that the property has 668
not been properly maintained or repaired due to the neglect of 669
the owner, the housing officer may revoke the exemption at any 670
time after the first year of exemption. If the owner of 671
commercial or industrial property exempted from taxation under 672
section 3735.67 of the Revised Code has materially failed to 673
fulfill its obligations under the written agreement entered into 674
under section 3735.671 of the Revised Code, or if the owner is 675
determined to have violated division ~~(E)~~ (C) of that section, 676
the legislative authority, subject to the terms of the 677

agreement, may revoke the exemption at any time after the first 678
year of exemption. The housing officer or legislative authority 679
shall notify the county auditor and the owner of the property 680
that the tax exemption no longer applies. If the housing officer 681
or legislative authority revokes a tax exemption, the housing 682
officer shall send a report of the revocation to the community 683
reinvestment area housing council and to the tax incentive 684
review council established pursuant to section 3735.69 or 685
5709.85 of the Revised Code, containing a statement of the 686
findings as to the maintenance and repair of the property, 687
failure to fulfill obligations under the written agreement, or 688
violation of division ~~(E)~~ (C) of section 3735.671 of the Revised 689
Code, and the reason for revoking the exemption. 690

If the agreement entered into under section 3735.671 of 691
the Revised Code so provides, the legislative authority of a 692
~~municipal corporation or county political subdivision~~ may 693
require the owner of property whose exemption has been revoked 694
to reimburse the taxing authorities within whose taxing 695
jurisdiction the exempted property is located for the amount of 696
real property taxes that would have been payable to those 697
authorities had the property not been exempted from taxation. 698

Sec. 3735.69. (A) A community reinvestment area housing 699
council shall be appointed for each community reinvestment 700
area, as follows: 701

(1) When the area is ~~located within a~~ designated by a 702
municipal corporation, the council shall be composed of two 703
members appointed by the mayor of the municipal corporation, two 704
members appointed by the legislative authority of the municipal 705
corporation, and one member appointed by the planning commission 706
of the municipal corporation. The majority of the foregoing 707

members shall then appoint two additional members who shall be 708
residents of the ~~political subdivision~~ municipal corporation. 709
~~When~~ 710

(2) When the area is designated by a limited home rule 711
township, the council shall be composed of two members appointed 712
by the board of trustees of the township, one member appointed 713
by the township law director, one member appointed by the 714
township zoning commission or, if the township has not 715
established such a commission, the county planning commission, 716
and one member appointed by the board of county commissioners of 717
the county where the area is located. 718

(3) When the area is located within an unincorporated area 719
of ~~designated by a county~~, the council shall be composed of one 720
member appointed by each member of the board of county 721
commissioners of the county where the area is located and two 722
members appointed by the county planning commission. The 723
majority of the foregoing members shall then appoint two 724
additional members who shall be residents of the ~~political~~ 725
~~subdivision~~ county. Terms of the members of the council shall be 726
for three years. ~~An~~ 727

An unexpired term resulting from a vacancy in the council 728
shall be filled in the same manner as the initial appointment 729
was made. 730

The council shall make an annual inspection of the 731
properties within the community reinvestment area for which an 732
exemption has been granted under section 3735.67 of the Revised 733
Code. The council shall also hear appeals under section 3735.70 734
of the Revised Code. 735

(B) On or before the thirty-first day of March each year, 736

any ~~municipal corporation or county~~ political subdivision that 737
has created a community reinvestment area under section 3735.66 738
of the Revised Code shall submit to the director of development 739
a status report summarizing the activities and projects for 740
which an exemption has been granted in that area. 741

Sec. 5709.631. Each agreement entered into under sections 742
5709.62, 5709.63, and 5709.632 of the Revised Code on or after 743
April 1, 1994, shall be in writing and shall include all of the 744
information and statements prescribed by this section. 745
Agreements may include terms not prescribed by this section, but 746
such terms shall in no way derogate from the information and 747
statements prescribed by this section. 748

(A) Each agreement shall include the following 749
information: 750

(1) The names of all parties to the agreement; 751

(2) A description of the investments to be made by the 752
applicant enterprise or by another party at the facility whether 753
or not the investments are exempted from taxation, including 754
existing or new building size and cost thereof; the value of 755
machinery, equipment, furniture, and fixtures, including an 756
itemization of the value of machinery, equipment, furniture, and 757
fixtures used at another location in this state prior to the 758
agreement and relocated or to be relocated from that location to 759
the facility and the value of machinery, equipment, furniture, 760
and fixtures at the facility prior to the execution of the 761
agreement that will not be exempted from taxation; the value of 762
inventory at the facility, including an itemization of the value 763
of inventory held at another location in this state prior to the 764
agreement and relocated or to be relocated from that location to 765
the facility, and the value of inventory held at the facility 766

prior to the execution of the agreement that will not be	767
exempted from taxation;	768
(3) The scheduled starting and completion dates of	769
investments made in building, machinery, equipment, furniture,	770
fixtures, and inventory;	771
(4) Estimates of the number of employee positions to be	772
created each year of the agreement and of the number of employee	773
positions retained by the applicant enterprise due to the	774
project, itemized as to the number of full-time, part-time,	775
permanent, and temporary positions;	776
(5) Estimates of the dollar amount of payroll attributable	777
to the positions set forth in division (A) (4) of this section,	778
similarly itemized;	779
(6) The number of employee positions, if any, at the	780
project site and at any other location in the state at the time	781
the agreement is executed, itemized as to the number of full-	782
time, part-time, permanent, and temporary positions.	783
(B) Each agreement shall set forth the following	784
information and incorporate the following statements:	785
(1) A description of real property to be exempted from	786
taxation under the agreement, the percentage of the assessed	787
valuation of the real property exempted from taxation, and the	788
period for which the exemption is granted, accompanied by the	789
statement: "The exemption commences the first year for which the	790
real property would first be taxable were that property not	791
exempted from taxation. No exemption shall commence	792
after (insert date) nor extend beyond	793
(insert date)." The tax commissioner shall adopt rules	794
prescribing the form the description of such property shall	795

assume to ensure that the property to be exempted from taxation 796
under the agreement is distinguishable from property that is not 797
to be exempted under that agreement. 798

(2) A description of tangible personal property to be 799
exempted from taxation under the agreement, the percentage of 800
the assessed value of the tangible personal property exempted 801
from taxation, and the period for which the exemption is 802
granted, accompanied by the statement: "The minimum investment 803
for tangible personal property to qualify for the exemption is 804
\$..... (insert dollar amount) to purchase machinery and 805
equipment first used in business at the facility as a result of 806
the project, \$..... (insert dollar amount) for furniture 807
and fixtures and other noninventory personal property first used 808
in business at the facility as a result of the project, and 809
\$..... (insert dollar amount) for new inventory. The 810
maximum investment for tangible personal property to qualify for 811
the exemption is \$..... (insert dollar amount) to purchase 812
machinery and equipment first used in business at the facility 813
as a result of the project, \$..... (insert dollar amount) 814
for furniture and fixtures and other noninventory personal 815
property first used in business at the facility as a result of 816
the project, and \$..... (insert dollar amount) for new 817
inventory. The exemption commences the first year for which the 818
tangible personal property would first be taxable were that 819
property not exempted from taxation. No exemption shall commence 820
after tax return year (insert year) nor extend beyond 821
tax return year (insert year). In no instance shall 822
any tangible personal property be exempted from taxation for 823
more than ten return years unless, under division (D) (2) of 824
section 5709.62 or under division (C) (1) (b) of section 5709.63 825
of the Revised Code, the board of education approves exemption 826

for a number of years in excess of ten, in which case the 827
tangible personal property may be exempted from taxation for 828
that number of years, not to exceed fifteen return years." No 829
exemption shall be allowed for any type of tangible personal 830
property if the total investment is less than the minimum dollar 831
amount specified for that type of property. If, for a type of 832
tangible personal property, there are no minimum or maximum 833
investment dollar amounts specified in the statement or the 834
dollar amounts are designated in the statement as not 835
applicable, the exemption shall apply to the total cost of that 836
type of tangible personal property first used in business at the 837
facility as a result of the project. The tax commissioner shall 838
adopt rules prescribing the form the description of such 839
property shall assume to ensure that the property to be exempted 840
from taxation under the agreement is distinguishable from 841
property that is not to be exempted under that agreement. 842

(3) "..... (insert name of enterprise) shall pay such 843
real and tangible personal property taxes as are not exempted 844
under this agreement and are charged against such property and 845
shall file all tax reports and returns as required by law. 846
If (insert name of enterprise) fails to pay such 847
taxes or file such returns and reports, all incentives granted 848
under this agreement are rescinded beginning with the year for 849
which such taxes are charged or such reports or returns are 850
required to be filed and thereafter." 851

(4) "..... (insert name of enterprise) hereby 852
certifies that at the time this agreement is 853
executed, (insert name of enterprise) does not owe 854
any delinquent real or tangible personal property taxes to any 855
taxing authority of the State of Ohio, and does not owe 856
delinquent taxes for which (insert name of 857

enterprise) is liable under Chapter 5727., 5733., 5735., 5739., 858
5741., 5743., 5747., or 5753. of the Revised Code, or, if such 859
delinquent taxes are owed, (insert name of 860
enterprise) currently is paying the delinquent taxes pursuant to 861
a delinquent tax contract enforceable by the State of Ohio or an 862
agent or instrumentality thereof, has filed a petition in 863
bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition 864
has been filed against (insert name of enterprise). 865
For the purposes of the certification, delinquent taxes are 866
taxes that remain unpaid on the latest day prescribed for 867
payment without penalty under the chapter of the Revised Code 868
governing payment of those taxes." 869

(5) "..... (insert name of municipal corporation or 870
county) shall perform such acts as are reasonably necessary or 871
appropriate to effect, claim, reserve, and maintain exemptions 872
from taxation granted under this agreement including, without 873
limitation, joining in the execution of all documentation and 874
providing any necessary certificates required in connection with 875
such exemptions." 876

(6) "If for any reason the enterprise zone designation 877
expires, the Director of the Ohio Department of Development 878
revokes certification of the zone, or (insert name of 879
municipal corporation or county) revokes the designation of the 880
zone, entitlements granted under this agreement shall continue 881
for the number of years specified under this agreement, 882
unless (insert name of enterprise) materially fails 883
to fulfill its obligations under this agreement and 884
(insert name of municipal corporation or county) terminates or 885
modifies the exemptions from taxation granted under this 886
agreement." 887

(7) "If (insert name of enterprise) materially 888
fails to fulfill its obligations under this agreement, other 889
than with respect to the number of employee positions estimated 890
to be created or retained under this agreement, or if 891
(insert name of municipal corporation or county) determines that 892
the certification as to delinquent taxes required by this 893
agreement is fraudulent, (insert name of municipal 894
corporation or county) may terminate or modify the exemptions 895
from taxation granted under this agreement." 896

(8) "..... (insert name of enterprise) shall provide 897
to the proper tax incentive review council any information 898
reasonably required by the council to evaluate the enterprise's 899
compliance with the agreement, including returns or annual 900
reports filed pursuant to section 5711.02 or 5727.08 of the Ohio 901
Revised Code if requested by the council." 902

(9) "..... (insert name of enterprise) and 903
(insert name of municipal corporation or county) acknowledge 904
that this agreement must be approved by formal action of the 905
legislative authority of (insert name of municipal 906
corporation or county) as a condition for the agreement to take 907
effect. This agreement takes effect upon such approval." 908

(10) "This agreement is not transferable or assignable 909
without the express, written approval of (insert name 910
of municipal corporation or county)." 911

(11) "Exemptions from taxation granted under this 912
agreement shall be revoked if it is determined 913
that (insert name of enterprise), any successor 914
enterprise, or any related member (as those terms are defined in 915
section 5709.61 of the Ohio Revised Code) has violated the 916
prohibition against entering into this agreement under division 917

~~(E)~~ (C) of section 3735.671 or section 5709.62, 5709.63, or 918
5709.632 of the Ohio Revised Code prior to the time prescribed 919
by that division or either of those sections." 920

(12) "In any three-year period during which this agreement 921
is in effect, if the actual number of employee positions created 922
or retained by..... (insert name of enterprise) is not equal 923
to or greater than seventy-five per cent of the number of 924
employee positions estimated to be created or retained under 925
this agreement during that three-year period,..... (insert 926
name of enterprise) shall repay the amount of taxes on property 927
that would have been payable had the property not been exempted 928
from taxation under this agreement during that three-year 929
period. In addition, the..... (insert name of municipal 930
corporation or county) may terminate or modify the exemptions 931
from taxation granted under this agreement." 932

(13) If the enterprise is the owner of real property 933
constituting the site of a megaproject or is a megaproject 934
supplier, both of the following: 935

(a) A requirement that the enterprise annually certify to 936
the legislative authority whether the megaproject operator or 937
megaproject supplier, as applicable, holds a certificate issued 938
under division (D) (7) of section 122.17 of the Revised Code on 939
the first day of the current tax year; 940

(b) A provision authorizing the legislative authority to 941
terminate the exemption for current and subsequent tax years if 942
the megaproject operator or megaproject supplier, as applicable, 943
does not hold a certificate issued under division (D) (7) of 944
section 122.17 of the Revised Code on the first day of the 945
current tax year. 946

The statement described in division (B)(7) of this section 947
may include the following statement, appended at the end of the 948
statement: "and may require the repayment of the amount of taxes 949
that would have been payable had the property not been exempted 950
from taxation under this agreement." If the agreement includes a 951
statement requiring repayment of exempted taxes, it also may 952
authorize the legislative authority to secure repayment of such 953
taxes by a lien on the exempted property in the amount required 954
to be repaid. Such a lien on exempted real property shall 955
attach, and may be perfected, collected, and enforced, in the 956
same manner as a mortgage lien on real property, and shall 957
otherwise have the same force and effect as a mortgage lien on 958
real property. Notwithstanding section 5719.01 of the Revised 959
Code, such a lien on exempted tangible personal property shall 960
attach, and may be perfected, collected, and enforced, in the 961
same manner as a security interest in goods under Chapter 1309. 962
of the Revised Code, and shall otherwise have the same force and 963
effect as such a security interest. 964

(C) If the director of development had to issue a waiver 965
under section 5709.633 of the Revised Code as a condition for 966
the agreement to be executed, the agreement shall include the 967
following statement: 968

"Continuation of this agreement is subject to the validity 969
of the circumstance upon which (insert name of 970
enterprise) applied for, and the Director of the Ohio Department 971
of Development issued, the waiver pursuant to section 5709.633 972
of the Ohio Revised Code. If, after formal approval of this 973
agreement by (insert name of municipal corporation or 974
county), the Director or (insert name of municipal 975
corporation or county) discovers that such a circumstance did 976
not exist, (insert name of enterprise) shall be 977

deemed to have materially failed to comply with this agreement." 978

If the director issued a waiver on the basis of the 979
circumstance described in division (B) (3) of section 5709.633 of 980
the Ohio Revised Code, the conditions enumerated in divisions 981
(B) (3) (a) (i) and (ii) or divisions (B) (3) (b) (i) and (ii) of that 982
section shall be incorporated in the information described in 983
divisions (A) (2), (3), and (4) of this section. 984

Sec. 5709.82. (A) As used in this section: 985

(1) "New employee" means both of the following: 986

(a) Persons employed in the construction of real property 987
exempted from taxation under the chapters or sections of the 988
Revised Code enumerated in division (B) of this section; 989

(b) Persons not described by division (A) (1) (a) of this 990
section who are first employed at the site of such property and 991
who within the two previous years have not been subject, prior 992
to being employed at that site, to income taxation by the 993
municipal corporation within whose territory the site is located 994
on income derived from employment for the person's current 995
employer. "New employee" does not include any person who 996
replaces a person who is not a new employee under division (A) 997
(1) of this section. 998

(2) "Infrastructure costs" means costs incurred by a 999
municipal corporation in a calendar year to acquire, construct, 1000
reconstruct, improve, plan, or equip real or tangible personal 1001
property that directly benefits or will directly benefit the 1002
exempted property. If the municipal corporation finances the 1003
acquisition, construction, reconstruction, improvement, 1004
planning, or equipping of real or tangible personal property 1005
that directly benefits the exempted property by issuing debt, 1006

"infrastructure costs" means the annual debt charges incurred by the municipal corporation from the issuance of such debt. Real or tangible personal property directly benefits exempted property only if the exempted property places or will place direct, additional demand on the real or tangible personal property for which such costs were or will be incurred.

(3) "Taxing unit" has the same meaning as in division (H) of section 5705.01 of the Revised Code.

(B)(1) Except as otherwise provided under division (C) of this section, the legislative authority of any political subdivision that has acted under the authority of Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code to grant an exemption from taxation for real or tangible personal property may negotiate with the board of education of each city, local, exempted village, or joint vocational school district or other taxing unit within the territory of which the exempted property is located, and enter into an agreement whereby the school district or taxing unit is compensated for tax revenue foregone by the school district or taxing unit as a result of the exemption. Except as otherwise provided in division (B)(1) of this section, if a political subdivision enters into more than one agreement under this section with respect to a tax exemption, the political subdivision shall provide to each school district or taxing unit with which it contracts the same percentage of tax revenue foregone by the school district or taxing unit, which may be based on a good faith projection made at the time the exemption is granted. Such percentage shall be calculated on the basis of amounts paid by the political subdivision and any amounts paid by an owner under division (B)

(2) of this section. A political subdivision may provide a 1038
school district or other taxing unit with a smaller percentage 1039
of foregone tax revenue than that provided to other school 1040
districts or taxing units only if the school district or taxing 1041
unit expressly consents in the agreement to receiving a smaller 1042
percentage. If a subdivision has acted under the authority of 1043
section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 1044
5709.632, 5709.73, or 5709.78 of the Revised Code and enters 1045
into a compensation agreement with a city, local, or exempted 1046
village school district, the subdivision shall provide 1047
compensation to the joint vocational school district within the 1048
territory of which the exempted property is located at the same 1049
rate and under the same terms as received by the city, local, or 1050
exempted village school district. 1051

(2) An owner of property exempted from taxation under the 1052
authority described in division (B)(1) of this section may, by 1053
becoming a party to an agreement described in division (B)(1) of 1054
this section or by entering into a separate agreement with a 1055
school district or other taxing unit, agree to compensate the 1056
school district or taxing unit by paying cash or by providing 1057
property or services by gift, loan, or otherwise. If the owner's 1058
property is exempted under the authority of section 3735.671, 1059
5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 5709.73, 1060
or 5709.78 of the Revised Code and the owner enters into a 1061
compensation agreement with a city, local, or exempted village 1062
school district, the owner shall provide compensation to the 1063
joint vocational school district within the territory of which 1064
the owner's property is located at the same rate and under the 1065
same terms as received by the city, local, or exempted village 1066
school district. 1067

(C) This division does not apply to the following: 1068

(1) The legislative authority of a municipal corporation 1069
that has acted under the authority of division (H) of section 1070
715.70 or division (U) of section 715.72 of the Revised Code to 1071
consent to the granting of an exemption from taxation for real 1072
or tangible personal property in a joint economic development 1073
district. 1074

(2) The legislative authority of a municipal corporation 1075
that has specified in an ordinance adopted under section 1076
5709.40, 5709.41, or 5709.45 of the Revised Code that payments 1077
in lieu of taxes provided for under section 5709.42 or 5709.46 1078
of the Revised Code shall be paid to the city, local, or 1079
exempted village school district in which the improvements are 1080
located in the amount of taxes that would have been payable to 1081
the school district if the improvements had not been exempted 1082
from taxation, as directed in the ordinance. 1083

If the legislative authority of any municipal corporation 1084
has acted under the authority of Chapter 725. or 1728. or 1085
section 3735.671, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 1086
5709.632, or 5709.88, or a housing officer under section 3735.67 1087
of the Revised Code, to grant or consent to the granting of an 1088
exemption from taxation for real or tangible personal property 1089
on or after July 1, 1994, the municipal corporation imposes a 1090
tax on incomes, and the payroll of new employees resulting from 1091
the exercise of that authority equals or exceeds one million 1092
dollars, or two million dollars, as adjusted under division (E) 1093
of this section, in the case of the authority exercised under 1094
section 3735.67 or 3735.671 of the Revised Code, in any tax year 1095
for which such property is exempted, the legislative authority 1096
and the board of education of each city, local, or exempted 1097
village school district within the territory of which the 1098
exempted property is located shall attempt to negotiate an 1099

agreement providing for compensation to the school district for 1100
all or a portion of the tax revenue the school district would 1101
have received had the property not been exempted from taxation. 1102
The agreement may include as a party the owner of the property 1103
exempted or to be exempted from taxation and may include 1104
provisions obligating the owner to compensate the school 1105
district by paying cash or providing property or services by 1106
gift, loan, or otherwise. Such an obligation is enforceable by 1107
the board of education of the school district pursuant to the 1108
terms of the agreement. 1109

If the legislative authority and board of education fail 1110
to negotiate an agreement that is mutually acceptable within six 1111
months of formal approval by the legislative authority of the 1112
instrument granting the exemption, the legislative authority 1113
shall compensate the school district in the amount and manner 1114
prescribed by division (D) of this section. 1115

(D) Annually, the legislative authority of a municipal 1116
corporation subject to this division shall pay to the city, 1117
local, or exempted village school district within the territory 1118
of which the exempted property is located an amount equal to 1119
fifty per cent of the difference between the amount of taxes 1120
levied and collected by the municipal corporation on the incomes 1121
of new employees in the calendar year ending on the day the 1122
payment is required to be made, and the amount of any 1123
infrastructure costs incurred in that calendar year. For 1124
purposes of such computation, the amount of infrastructure costs 1125
shall not exceed thirty-five per cent of the amount of those 1126
taxes unless the board of education of the school district, by 1127
resolution adopted by a majority of the board, approves an 1128
amount in excess of that percentage. If the amount of those 1129
taxes or infrastructure costs must be estimated at the time the 1130

payment is made, payments in subsequent years shall be adjusted 1131
to compensate for any departure of those estimates from the 1132
actual amount of those taxes. 1133

A municipal corporation required to make a payment under 1134
this section shall make the payment from its general fund or a 1135
special fund established for the purpose. The payment is payable 1136
on the thirty-first day of December of the tax year for or in 1137
which the exemption from taxation commences and on that day for 1138
each subsequent tax year property is exempted and the 1139
legislative authority and board fail to negotiate an acceptable 1140
agreement under division (C) of this section. 1141

(E) (1) The director of development shall adjust, in 1142
September of each year, the payroll threshold described in 1143
division (C) (2) of this section applicable to the exercise of 1144
authority under section 3735.67 or 3735.671 of the Revised Code 1145
by completing the following computations: 1146

(a) Determine the percentage increase in the gross 1147
domestic product deflator determined by the bureau of economic 1148
analysis of the United States department of commerce from the 1149
first day of January of the preceding calendar year to the last 1150
day of December of the preceding calendar year; 1151

(b) Multiply that percentage increase by the threshold 1152
applicable for the current year; 1153

(c) Add the resulting product to the threshold applicable 1154
for the current year; 1155

(d) Round the resulting sum to the nearest one thousand 1156
dollars. 1157

(2) The director shall certify the amount of the 1158
adjustment under division (E) (1) of this section to each 1159

legislative authority of a municipal corporation and housing 1160
officer designated by a municipal corporation exercising 1161
authority under section 3735.67 or 3735.671 of the Revised Code 1162
not later than the first day of December of the year the 1163
director computes the adjustment. The certified amount applies 1164
to the ensuing calendar year and each calendar year thereafter 1165
until the director makes a new adjustment. The director shall 1166
not calculate a new adjustment in any year in which the 1167
resulting threshold amount from the adjustment would be less 1168
than the threshold for the current year. 1169

Sec. 5709.85. (A) The legislative authority of a county, 1170
township, or municipal corporation that grants an exemption from 1171
taxation under Chapter 725. or 1728. or under section 3735.67, 1172
5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 5709.63, 5709.632, 1173
5709.73, or 5709.78 of the Revised Code shall create a tax 1174
incentive review council. The council shall consist of the 1175
following members: 1176

(1) In the case of a municipal corporation eligible to 1177
designate a zone under section 5709.62 or 5709.632 of the 1178
Revised Code, the chief executive officer or that officer's 1179
designee; a member of the legislative authority of the municipal 1180
corporation, appointed by the president of the legislative 1181
authority or, if the chief executive officer of the municipal 1182
corporation is the president, appointed by the president pro 1183
tempore of the legislative authority; the county auditor or the 1184
county auditor's designee; the chief financial officer of the 1185
municipal corporation or that officer's designee; an individual 1186
appointed by the board of education of each city, local, 1187
exempted village, and joint vocational school district to which 1188
the instrument granting the exemption applies; and two members 1189
of the public appointed by the chief executive officer of the 1190

municipal corporation with the concurrence of the legislative 1191
authority. At least four members of the council shall be 1192
residents of the municipal corporation, and at least one of the 1193
two public members appointed by the chief executive officer 1194
shall be a minority. As used in division (A)(1) of this section, 1195
a "minority" is an individual who is African-American, Hispanic, 1196
or Native American. 1197

(2) In the case of a county or a municipal corporation 1198
that is not eligible to designate a zone under section 5709.62 1199
or 5709.632 of the Revised Code, three members appointed by the 1200
board of county commissioners; two members from each municipal 1201
corporation to which the instrument granting the tax exemption 1202
applies, appointed by the chief executive officer with the 1203
concurrence of the legislative authority of the respective 1204
municipal corporations; two members of each township to which 1205
the instrument or agreement granting the tax exemption applies, 1206
appointed by the board of township trustees of the respective 1207
townships; the county auditor or the county auditor's designee; 1208
and an individual appointed by the board of education of each 1209
city, local, exempted village, and joint vocational school 1210
district to which the instrument or agreement granting the tax 1211
exemption applies. At least two members of the council shall be 1212
residents of the municipal corporations or townships to which 1213
the instrument or agreement granting the tax exemption applies. 1214

(3) In the case of a township ~~in which improvements are~~ 1215
~~declared a public purpose under section 5709.73 of the Revised~~ 1216
~~Code,~~ the board of township trustees; the county auditor or the 1217
county auditor's designee; and an individual appointed by the 1218
board of education of each city, local, exempted village, and 1219
joint vocational school district to which the instrument or 1220
agreement granting the exemption applies. 1221

(B) The county auditor or the county auditor's designee 1222
shall serve as the chairperson of the council. The council shall 1223
meet at the call of the chairperson. At the first meeting of the 1224
council, the council shall select a vice-chairperson. Attendance 1225
by a majority of the members of the council constitutes a quorum 1226
to conduct the business of the council. 1227

(C) (1) Annually, the tax incentive review council shall 1228
review all agreements granting exemptions from property taxation 1229
under Chapter 725. or 1728. or under section 3735.671, 5709.28, 1230
5709.62, 5709.63, or 5709.632 of the Revised Code, and any 1231
performance or audit reports required to be submitted pursuant 1232
to those agreements. The review shall include agreements 1233
granting such exemptions that were entered into prior to July 1234
22, 1994, that continue to be in force and applicable to the 1235
current year's property taxes. 1236

With respect to each agreement, other than an agreement 1237
entered into under section 5709.28 of the Revised Code, the 1238
council shall determine whether the owner of the exempted 1239
property has complied with the agreement, and may take into 1240
consideration any fluctuations in the business cycle unique to 1241
the owner's business. 1242

With respect to an agreement entered into under section 1243
5709.28 of the Revised Code, the council shall consist of the 1244
members described in division (A) (2) of this section and shall 1245
determine whether the agreement complies with the requirements 1246
of section 5709.28 of the Revised Code and whether a withdrawal, 1247
removal, or conversion of land from an agricultural security 1248
area established under Chapter 931. of the Revised Code has 1249
occurred in a manner that makes the exempted property no longer 1250
eligible for the exemption. 1251

On the basis of the determinations, on or before the first 1252
day of September of each year, the council shall submit to the 1253
legislative authority written recommendations for continuation, 1254
modification, or cancellation of each agreement. 1255

(2) Annually, the tax incentive review council shall 1256
review all exemptions from property taxation resulting from the 1257
declaration of public purpose improvements pursuant to section 1258
5709.40, 5709.41, 5709.45, 5709.73, or 5709.78 of the Revised 1259
Code. The review shall include such exemptions that were granted 1260
prior to July 22, 1994, that continue to be in force and 1261
applicable to the current year's property taxes. With respect to 1262
each improvement for which an exemption is granted, the council 1263
shall determine the increase in the true value of parcels of 1264
real property on which improvements have been undertaken as a 1265
result of the exemption; the value of improvements exempted from 1266
taxation as a result of the exemption; and the number of new 1267
employees or employees retained on the site of the improvement 1268
as a result of the exemption. 1269

Upon the request of a tax incentive review council, the 1270
county auditor, the housing officer appointed pursuant to 1271
section 3735.66 of the Revised Code, the owner of a new or 1272
remodeled structure or improvement, and the legislative 1273
authority of the county, township, or municipal corporation 1274
granting the exemption shall supply the council with any 1275
information reasonably necessary for the council to make the 1276
determinations required under division (C) of this section, 1277
including returns or reports filed pursuant to sections 5711.02, 1278
5711.13, and 5727.08 of the Revised Code. 1279

(D) Annually, the tax incentive review council shall 1280
review the compliance of each recipient of a tax exemption under 1281

Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 1282
5709.45, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the 1283
Revised Code with the nondiscriminatory hiring policies 1284
developed by the county, township, or municipal corporation 1285
under section 5709.832 of the Revised Code. Upon the request of 1286
the council, the recipient shall provide the council any 1287
information necessary to perform its review. On the basis of its 1288
review, the council may submit to the legislative authority 1289
written recommendations for enhancing compliance with the 1290
nondiscriminatory hiring policies. 1291

(E) A legislative authority that receives from a tax 1292
incentive review council written recommendations under division 1293
(C) (1) or (D) of this section shall, within sixty days after 1294
receipt, hold a meeting and vote to accept, reject, or modify 1295
all or any portion of the recommendations. 1296

(F) A tax incentive review council may request from the 1297
recipient of a tax exemption under Chapter 725. or 1728. or 1298
section 3735.67, 5709.28, 5709.40, 5709.41, 5709.45, 5709.62, 1299
5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code any 1300
information reasonably necessary for the council to perform its 1301
review under this section. The request shall be in writing and 1302
shall be sent to the recipient by certified mail. Within ten 1303
days after receipt of the request, the recipient shall provide 1304
to the council the information requested. 1305

Sec. 5747.01. Except as otherwise expressly provided or 1306
clearly appearing from the context, any term used in this 1307
chapter that is not otherwise defined in this section has the 1308
same meaning as when used in a comparable context in the laws of 1309
the United States relating to federal income taxes or if not 1310
used in a comparable context in those laws, has the same meaning 1311

as in section 5733.40 of the Revised Code. Any reference in this 1312
chapter to the Internal Revenue Code includes other laws of the 1313
United States relating to federal income taxes. 1314

As used in this chapter: 1315

(A) "Adjusted gross income" or "Ohio adjusted gross 1316
income" means federal adjusted gross income, as defined and used 1317
in the Internal Revenue Code, adjusted as provided in this 1318
section: 1319

(1) Add interest or dividends on obligations or securities 1320
of any state or of any political subdivision or authority of any 1321
state, other than this state and its subdivisions and 1322
authorities. 1323

(2) Add interest or dividends on obligations of any 1324
authority, commission, instrumentality, territory, or possession 1325
of the United States to the extent that the interest or 1326
dividends are exempt from federal income taxes but not from 1327
state income taxes. 1328

(3) Deduct interest or dividends on obligations of the 1329
United States and its territories and possessions or of any 1330
authority, commission, or instrumentality of the United States 1331
to the extent that the interest or dividends are included in 1332
federal adjusted gross income but exempt from state income taxes 1333
under the laws of the United States. 1334

(4) Deduct disability and survivor's benefits to the 1335
extent included in federal adjusted gross income. 1336

(5) Deduct benefits under Title II of the Social Security 1337
Act and tier 1 railroad retirement benefits to the extent 1338
included in federal adjusted gross income under section 86 of 1339
the Internal Revenue Code. 1340

(6) Deduct the amount of wages and salaries, if any, not 1341
otherwise allowable as a deduction but that would have been 1342
allowable as a deduction in computing federal adjusted gross 1343
income for the taxable year, had the targeted jobs credit 1344
allowed and determined under sections 38, 51, and 52 of the 1345
Internal Revenue Code not been in effect. 1346

(7) Deduct any interest or interest equivalent on public 1347
obligations and purchase obligations to the extent that the 1348
interest or interest equivalent is included in federal adjusted 1349
gross income. 1350

(8) Add any loss or deduct any gain resulting from the 1351
sale, exchange, or other disposition of public obligations to 1352
the extent that the loss has been deducted or the gain has been 1353
included in computing federal adjusted gross income. 1354

(9) Deduct or add amounts, as provided under section 1355
5747.70 of the Revised Code, related to contributions made to 1356
~~variable college savings program accounts made~~ or tuition units 1357
~~purchased pursuant to Chapter 3334. of the Revised Code~~ under a 1358
qualified tuition program established pursuant to section 529 of 1359
the Internal Revenue Code. 1360

(10) (a) Deduct, to the extent not otherwise allowable as a 1361
deduction or exclusion in computing federal or Ohio adjusted 1362
gross income for the taxable year, the amount the taxpayer paid 1363
during the taxable year for medical care insurance and qualified 1364
long-term care insurance for the taxpayer, the taxpayer's 1365
spouse, and dependents. No deduction for medical care insurance 1366
under division (A) (10) (a) of this section shall be allowed 1367
either to any taxpayer who is eligible to participate in any 1368
subsidized health plan maintained by any employer of the 1369
taxpayer or of the taxpayer's spouse, or to any taxpayer who is 1370

entitled to, or on application would be entitled to, benefits 1371
under part A of Title XVIII of the "Social Security Act," 49 1372
Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of 1373
division (A)(10)(a) of this section, "subsidized health plan" 1374
means a health plan for which the employer pays any portion of 1375
the plan's cost. The deduction allowed under division (A)(10)(a) 1376
of this section shall be the net of any related premium refunds, 1377
related premium reimbursements, or related insurance premium 1378
dividends received during the taxable year. 1379

(b) Deduct, to the extent not otherwise deducted or 1380
excluded in computing federal or Ohio adjusted gross income 1381
during the taxable year, the amount the taxpayer paid during the 1382
taxable year, not compensated for by any insurance or otherwise, 1383
for medical care of the taxpayer, the taxpayer's spouse, and 1384
dependents, to the extent the expenses exceed seven and one-half 1385
per cent of the taxpayer's federal adjusted gross income. 1386

(c) For purposes of division (A)(10) of this section, 1387
"medical care" has the meaning given in section 213 of the 1388
Internal Revenue Code, subject to the special rules, 1389
limitations, and exclusions set forth therein, and "qualified 1390
long-term care" has the same meaning given in section 7702B(c) 1391
of the Internal Revenue Code. Solely for purposes of division 1392
(A)(10)(a) of this section, "dependent" includes a person who 1393
otherwise would be a "qualifying relative" and thus a 1394
"dependent" under section 152 of the Internal Revenue Code but 1395
for the fact that the person fails to meet the income and 1396
support limitations under section 152(d)(1)(B) and (C) of the 1397
Internal Revenue Code. 1398

(11)(a) Deduct any amount included in federal adjusted 1399
gross income solely because the amount represents a 1400

reimbursement or refund of expenses that in any year the 1401
taxpayer had deducted as an itemized deduction pursuant to 1402
section 63 of the Internal Revenue Code and applicable United 1403
States department of the treasury regulations. The deduction 1404
otherwise allowed under division (A) (11) (a) of this section 1405
shall be reduced to the extent the reimbursement is attributable 1406
to an amount the taxpayer deducted under this section in any 1407
taxable year. 1408

(b) Add any amount not otherwise included in Ohio adjusted 1409
gross income for any taxable year to the extent that the amount 1410
is attributable to the recovery during the taxable year of any 1411
amount deducted or excluded in computing federal or Ohio 1412
adjusted gross income in any taxable year. 1413

(12) Deduct any portion of the deduction described in 1414
section 1341(a) (2) of the Internal Revenue Code, for repaying 1415
previously reported income received under a claim of right, that 1416
meets both of the following requirements: 1417

(a) It is allowable for repayment of an item that was 1418
included in the taxpayer's adjusted gross income for a prior 1419
taxable year and did not qualify for a credit under division (A) 1420
or (B) of section 5747.05 of the Revised Code for that year; 1421

(b) It does not otherwise reduce the taxpayer's adjusted 1422
gross income for the current or any other taxable year. 1423

(13) Deduct an amount equal to the deposits made to, and 1424
net investment earnings of, a medical savings account during the 1425
taxable year, in accordance with section 3924.66 of the Revised 1426
Code. The deduction allowed by division (A) (13) of this section 1427
does not apply to medical savings account deposits and earnings 1428
otherwise deducted or excluded for the current or any other 1429

taxable year from the taxpayer's federal adjusted gross income.	1430
(14) (a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;	1431 1432 1433 1434 1435 1436
(b) Add the amounts distributed from a medical savings account under division (A) (2) of section 3924.68 of the Revised Code during the taxable year.	1437 1438 1439
(15) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:	1440 1441 1442
(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;	1443 1444 1445 1446
(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.	1447 1448 1449
(16) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A) (16) of this section.	1450 1451 1452 1453 1454 1455 1456 1457
(17) (a) (i) Subject to divisions (A) (17) (a) (iii), (iv), and	1458

(v) of this section, add five-sixths of the amount of 1459
depreciation expense allowed by subsection (k) of section 168 of 1460
the Internal Revenue Code, including the taxpayer's 1461
proportionate or distributive share of the amount of 1462
depreciation expense allowed by that subsection to a pass- 1463
through entity in which the taxpayer has a direct or indirect 1464
ownership interest. 1465

(ii) Subject to divisions (A) (17) (a) (iii), (iv), and (v) 1466
of this section, add five-sixths of the amount of qualifying 1467
section 179 depreciation expense, including the taxpayer's 1468
proportionate or distributive share of the amount of qualifying 1469
section 179 depreciation expense allowed to any pass-through 1470
entity in which the taxpayer has a direct or indirect ownership 1471
interest. 1472

(iii) Subject to division (A) (17) (a) (v) of this section, 1473
for taxable years beginning in 2012 or thereafter, if the 1474
increase in income taxes withheld by the taxpayer is equal to or 1475
greater than ten per cent of income taxes withheld by the 1476
taxpayer during the taxpayer's immediately preceding taxable 1477
year, "two-thirds" shall be substituted for "five-sixths" for 1478
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1479

(iv) Subject to division (A) (17) (a) (v) of this section, 1480
for taxable years beginning in 2012 or thereafter, a taxpayer is 1481
not required to add an amount under division (A) (17) of this 1482
section if the increase in income taxes withheld by the taxpayer 1483
and by any pass-through entity in which the taxpayer has a 1484
direct or indirect ownership interest is equal to or greater 1485
than the sum of (I) the amount of qualifying section 179 1486
depreciation expense and (II) the amount of depreciation expense 1487
allowed to the taxpayer by subsection (k) of section 168 of the 1488

Internal Revenue Code, and including the taxpayer's 1489
proportionate or distributive shares of such amounts allowed to 1490
any such pass-through entities. 1491

(v) If a taxpayer directly or indirectly incurs a net 1492
operating loss for the taxable year for federal income tax 1493
purposes, to the extent such loss resulted from depreciation 1494
expense allowed by subsection (k) of section 168 of the Internal 1495
Revenue Code and by qualifying section 179 depreciation expense, 1496
"the entire" shall be substituted for "five-sixths of the" for 1497
the purpose of divisions (A) (17) (a) (i) and (ii) of this section. 1498

The tax commissioner, under procedures established by the 1499
commissioner, may waive the add-backs related to a pass-through 1500
entity if the taxpayer owns, directly or indirectly, less than 1501
five per cent of the pass-through entity. 1502

(b) Nothing in division (A) (17) of this section shall be 1503
construed to adjust or modify the adjusted basis of any asset. 1504

(c) To the extent the add-back required under division (A) 1505
(17) (a) of this section is attributable to property generating 1506
nonbusiness income or loss allocated under section 5747.20 of 1507
the Revised Code, the add-back shall be situated to the same 1508
location as the nonbusiness income or loss generated by the 1509
property for the purpose of determining the credit under 1510
division (A) of section 5747.05 of the Revised Code. Otherwise, 1511
the add-back shall be apportioned, subject to one or more of the 1512
four alternative methods of apportionment enumerated in section 1513
5747.21 of the Revised Code. 1514

(d) For the purposes of division (A) (17) (a) (v) of this 1515
section, net operating loss carryback and carryforward shall not 1516
include the allowance of any net operating loss deduction 1517

carryback or carryforward to the taxable year to the extent such 1518
loss resulted from depreciation allowed by section 168(k) of the 1519
Internal Revenue Code and by the qualifying section 179 1520
depreciation expense amount. 1521

(e) For the purposes of divisions (A) (17) and (18) of this 1522
section: 1523

(i) "Income taxes withheld" means the total amount 1524
withheld and remitted under sections 5747.06 and 5747.07 of the 1525
Revised Code by an employer during the employer's taxable year. 1526

(ii) "Increase in income taxes withheld" means the amount 1527
by which the amount of income taxes withheld by an employer 1528
during the employer's current taxable year exceeds the amount of 1529
income taxes withheld by that employer during the employer's 1530
immediately preceding taxable year. 1531

(iii) "Qualifying section 179 depreciation expense" means 1532
the difference between (I) the amount of depreciation expense 1533
directly or indirectly allowed to a taxpayer under section 179 1534
of the Internal Revised Code, and (II) the amount of 1535
depreciation expense directly or indirectly allowed to the 1536
taxpayer under section 179 of the Internal Revenue Code as that 1537
section existed on December 31, 2002. 1538

(18) (a) If the taxpayer was required to add an amount 1539
under division (A) (17) (a) of this section for a taxable year, 1540
deduct one of the following: 1541

(i) One-fifth of the amount so added for each of the five 1542
succeeding taxable years if the amount so added was five-sixths 1543
of qualifying section 179 depreciation expense or depreciation 1544
expense allowed by subsection (k) of section 168 of the Internal 1545
Revenue Code; 1546

(ii) One-half of the amount so added for each of the two 1547
succeeding taxable years if the amount so added was two-thirds 1548
of such depreciation expense; 1549

(iii) One-sixth of the amount so added for each of the six 1550
succeeding taxable years if the entire amount of such 1551
depreciation expense was so added. 1552

(b) If the amount deducted under division (A) (18) (a) of 1553
this section is attributable to an add-back allocated under 1554
division (A) (17) (c) of this section, the amount deducted shall 1555
be situated to the same location. Otherwise, the add-back shall 1556
be apportioned using the apportionment factors for the taxable 1557
year in which the deduction is taken, subject to one or more of 1558
the four alternative methods of apportionment enumerated in 1559
section 5747.21 of the Revised Code. 1560

(c) No deduction is available under division (A) (18) (a) of 1561
this section with regard to any depreciation allowed by section 1562
168(k) of the Internal Revenue Code and by the qualifying 1563
section 179 depreciation expense amount to the extent that such 1564
depreciation results in or increases a federal net operating 1565
loss carryback or carryforward. If no such deduction is 1566
available for a taxable year, the taxpayer may carry forward the 1567
amount not deducted in such taxable year to the next taxable 1568
year and add that amount to any deduction otherwise available 1569
under division (A) (18) (a) of this section for that next taxable 1570
year. The carryforward of amounts not so deducted shall continue 1571
until the entire addition required by division (A) (17) (a) of 1572
this section has been deducted. 1573

(19) Deduct, to the extent not otherwise deducted or 1574
excluded in computing federal or Ohio adjusted gross income for 1575
the taxable year, the amount the taxpayer received during the 1576

taxable year as reimbursement for life insurance premiums under 1577
section 5919.31 of the Revised Code. 1578

(20) Deduct, to the extent not otherwise deducted or 1579
excluded in computing federal or Ohio adjusted gross income for 1580
the taxable year, the amount the taxpayer received during the 1581
taxable year as a death benefit paid by the adjutant general 1582
under section 5919.33 of the Revised Code. 1583

(21) Deduct, to the extent included in federal adjusted 1584
gross income and not otherwise allowable as a deduction or 1585
exclusion in computing federal or Ohio adjusted gross income for 1586
the taxable year, military pay and allowances received by the 1587
taxpayer during the taxable year for active duty service in the 1588
United States army, air force, navy, marine corps, or coast 1589
guard or reserve components thereof or the national guard. The 1590
deduction may not be claimed for military pay and allowances 1591
received by the taxpayer while the taxpayer is stationed in this 1592
state. 1593

(22) Deduct, to the extent not otherwise allowable as a 1594
deduction or exclusion in computing federal or Ohio adjusted 1595
gross income for the taxable year and not otherwise compensated 1596
for by any other source, the amount of qualified organ donation 1597
expenses incurred by the taxpayer during the taxable year, not 1598
to exceed ten thousand dollars. A taxpayer may deduct qualified 1599
organ donation expenses only once for all taxable years 1600
beginning with taxable years beginning in 2007. 1601

For the purposes of division (A) (22) of this section: 1602

(a) "Human organ" means all or any portion of a human 1603
liver, pancreas, kidney, intestine, or lung, and any portion of 1604
human bone marrow. 1605

(b) "Qualified organ donation expenses" means travel 1606
expenses, lodging expenses, and wages and salary forgone by a 1607
taxpayer in connection with the taxpayer's donation, while 1608
living, of one or more of the taxpayer's human organs to another 1609
human being. 1610

(23) Deduct, to the extent not otherwise deducted or 1611
excluded in computing federal or Ohio adjusted gross income for 1612
the taxable year, amounts received by the taxpayer as retired 1613
personnel pay for service in the uniformed services or reserve 1614
components thereof, or the national guard, or received by the 1615
surviving spouse or former spouse of such a taxpayer under the 1616
survivor benefit plan on account of such a taxpayer's death. If 1617
the taxpayer receives income on account of retirement paid under 1618
the federal civil service retirement system or federal employees 1619
retirement system, or under any successor retirement program 1620
enacted by the congress of the United States that is established 1621
and maintained for retired employees of the United States 1622
government, and such retirement income is based, in whole or in 1623
part, on credit for the taxpayer's uniformed service, the 1624
deduction allowed under this division shall include only that 1625
portion of such retirement income that is attributable to the 1626
taxpayer's uniformed service, to the extent that portion of such 1627
retirement income is otherwise included in federal adjusted 1628
gross income and is not otherwise deducted under this section. 1629
Any amount deducted under division (A) (23) of this section is 1630
not included in a taxpayer's adjusted gross income for the 1631
purposes of section 5747.055 of the Revised Code. No amount may 1632
be deducted under division (A) (23) of this section on the basis 1633
of which a credit was claimed under section 5747.055 of the 1634
Revised Code. 1635

(24) Deduct, to the extent not otherwise deducted or 1636

excluded in computing federal or Ohio adjusted gross income for 1637
the taxable year, the amount the taxpayer received during the 1638
taxable year from the military injury relief fund created in 1639
section 5902.05 of the Revised Code. 1640

(25) Deduct, to the extent not otherwise deducted or 1641
excluded in computing federal or Ohio adjusted gross income for 1642
the taxable year, the amount the taxpayer received as a veterans 1643
bonus during the taxable year from the Ohio department of 1644
veterans services as authorized by Section 2r of Article VIII, 1645
Ohio Constitution. 1646

(26) Deduct, to the extent not otherwise deducted or 1647
excluded in computing federal or Ohio adjusted gross income for 1648
the taxable year, any income derived from a transfer agreement 1649
or from the enterprise transferred under that agreement under 1650
section 4313.02 of the Revised Code. 1651

(27) Deduct, to the extent not otherwise deducted or 1652
excluded in computing federal or Ohio adjusted gross income for 1653
the taxable year, Ohio college opportunity or federal Pell grant 1654
amounts received by the taxpayer or the taxpayer's spouse or 1655
dependent pursuant to section 3333.122 of the Revised Code or 20 1656
U.S.C. 1070a, et seq., and used to pay room or board furnished 1657
by the educational institution for which the grant was awarded 1658
at the institution's facilities, including meal plans 1659
administered by the institution. For the purposes of this 1660
division, receipt of a grant includes the distribution of a 1661
grant directly to an educational institution and the crediting 1662
of the grant to the enrollee's account with the institution. 1663

(28) Deduct from the portion of an individual's federal 1664
adjusted gross income that is business income, to the extent not 1665
otherwise deducted or excluded in computing federal adjusted 1666

gross income for the taxable year, one hundred twenty-five 1667
thousand dollars for each spouse if spouses file separate 1668
returns under section 5747.08 of the Revised Code or two hundred 1669
fifty thousand dollars for all other individuals. 1670

(29) Deduct, as provided under section 5747.78 of the 1671
Revised Code, contributions to ABLE savings accounts made in 1672
accordance with sections 113.50 to 113.56 of the Revised Code. 1673

(30) (a) Deduct, to the extent not otherwise deducted or 1674
excluded in computing federal or Ohio adjusted gross income 1675
during the taxable year, all of the following: 1676

(i) Compensation paid to a qualifying employee described 1677
in division (A) (14) (a) of section 5703.94 of the Revised Code to 1678
the extent such compensation is for disaster work conducted in 1679
this state during a disaster response period pursuant to a 1680
qualifying solicitation received by the employee's employer; 1681

(ii) Compensation paid to a qualifying employee described 1682
in division (A) (14) (b) of section 5703.94 of the Revised Code to 1683
the extent such compensation is for disaster work conducted in 1684
this state by the employee during the disaster response period 1685
on critical infrastructure owned or used by the employee's 1686
employer; 1687

(iii) Income received by an out-of-state disaster business 1688
for disaster work conducted in this state during a disaster 1689
response period, or, if the out-of-state disaster business is a 1690
pass-through entity, a taxpayer's distributive share of the 1691
pass-through entity's income from the business conducting 1692
disaster work in this state during a disaster response period, 1693
if, in either case, the disaster work is conducted pursuant to a 1694
qualifying solicitation received by the business. 1695

(b) All terms used in division (A) (30) of this section 1696
have the same meanings as in section 5703.94 of the Revised 1697
Code. 1698

(31) For a taxpayer who is a qualifying Ohio educator, 1699
deduct, to the extent not otherwise deducted or excluded in 1700
computing federal or Ohio adjusted gross income for the taxable 1701
year, the lesser of two hundred fifty dollars or the amount of 1702
expenses described in subsections (a) (2) (D) (i) and (ii) of 1703
section 62 of the Internal Revenue Code paid or incurred by the 1704
taxpayer during the taxpayer's taxable year in excess of the 1705
amount the taxpayer is authorized to deduct for that taxable 1706
year under subsection (a) (2) (D) of that section. 1707

~~(34)~~ (32) Deduct, to the extent not otherwise deducted or 1708
excluded in computing federal or Ohio adjusted gross income for 1709
the taxable year, amounts received by the taxpayer as a 1710
disability severance payment, computed under 10 U.S.C. 1212, 1711
following discharge or release under honorable conditions from 1712
the armed forces, as defined by 10 U.S.C. 101. 1713

(B) "Business income" means income, including gain or 1714
loss, arising from transactions, activities, and sources in the 1715
regular course of a trade or business and includes income, gain, 1716
or loss from real property, tangible property, and intangible 1717
property if the acquisition, rental, management, and disposition 1718
of the property constitute integral parts of the regular course 1719
of a trade or business operation. "Business income" includes 1720
income, including gain or loss, from a partial or complete 1721
liquidation of a business, including, but not limited to, gain 1722
or loss from the sale or other disposition of goodwill. 1723

(C) "Nonbusiness income" means all income other than 1724
business income and may include, but is not limited to, 1725

compensation, rents and royalties from real or tangible personal 1726
property, capital gains, interest, dividends and distributions, 1727
patent or copyright royalties, or lottery winnings, prizes, and 1728
awards. 1729

(D) "Compensation" means any form of remuneration paid to 1730
an employee for personal services. 1731

(E) "Fiduciary" means a guardian, trustee, executor, 1732
administrator, receiver, conservator, or any other person acting 1733
in any fiduciary capacity for any individual, trust, or estate. 1734

(F) "Fiscal year" means an accounting period of twelve 1735
months ending on the last day of any month other than December. 1736

(G) "Individual" means any natural person. 1737

(H) "Internal Revenue Code" means the "Internal Revenue 1738
Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended. 1739

(I) "Resident" means any of the following: 1740

(1) An individual who is domiciled in this state, subject 1741
to section 5747.24 of the Revised Code; 1742

(2) The estate of a decedent who at the time of death was 1743
domiciled in this state. The domicile tests of section 5747.24 1744
of the Revised Code are not controlling for purposes of division 1745
(I) (2) of this section. 1746

(3) A trust that, in whole or part, resides in this state. 1747
If only part of a trust resides in this state, the trust is a 1748
resident only with respect to that part. 1749

For the purposes of division (I) (3) of this section: 1750

(a) A trust resides in this state for the trust's current 1751
taxable year to the extent, as described in division (I) (3) (d) 1752

of this section, that the trust consists directly or indirectly, 1753
in whole or in part, of assets, net of any related liabilities, 1754
that were transferred, or caused to be transferred, directly or 1755
indirectly, to the trust by any of the following: 1756

(i) A person, a court, or a governmental entity or 1757
instrumentality on account of the death of a decedent, but only 1758
if the trust is described in division (I) (3) (e) (i) or (ii) of 1759
this section; 1760

(ii) A person who was domiciled in this state for the 1761
purposes of this chapter when the person directly or indirectly 1762
transferred assets to an irrevocable trust, but only if at least 1763
one of the trust's qualifying beneficiaries is domiciled in this 1764
state for the purposes of this chapter during all or some 1765
portion of the trust's current taxable year; 1766

(iii) A person who was domiciled in this state for the 1767
purposes of this chapter when the trust document or instrument 1768
or part of the trust document or instrument became irrevocable, 1769
but only if at least one of the trust's qualifying beneficiaries 1770
is a resident domiciled in this state for the purposes of this 1771
chapter during all or some portion of the trust's current 1772
taxable year. If a trust document or instrument became 1773
irrevocable upon the death of a person who at the time of death 1774
was domiciled in this state for purposes of this chapter, that 1775
person is a person described in division (I) (3) (a) (iii) of this 1776
section. 1777

(b) A trust is irrevocable to the extent that the 1778
transferor is not considered to be the owner of the net assets 1779
of the trust under sections 671 to 678 of the Internal Revenue 1780
Code. 1781

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e) (2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I) (3) (a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I) (3) (a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the

qualifying ratio last computed without regard to the subsequent 1812
transfer, and (2) the fair market value of the subsequently 1813
transferred assets at the time transferred, net of any related 1814
liabilities, from sources enumerated in division (I) (3) (a) of 1815
this section. The denominator of the revised qualifying ratio is 1816
the fair market value of all the trust's assets immediately 1817
after the subsequent transfer, net of any related liabilities. 1818

(iii) Whether a transfer to the trust is by or from any of 1819
the sources enumerated in division (I) (3) (a) of this section 1820
shall be ascertained without regard to the domicile of the 1821
trust's beneficiaries. 1822

(e) For the purposes of division (I) (3) (a) (i) of this 1823
section: 1824

(i) A trust is described in division (I) (3) (e) (i) of this 1825
section if the trust is a testamentary trust and the testator of 1826
that testamentary trust was domiciled in this state at the time 1827
of the testator's death for purposes of the taxes levied under 1828
Chapter 5731. of the Revised Code. 1829

(ii) A trust is described in division (I) (3) (e) (ii) of 1830
this section if the transfer is a qualifying transfer described 1831
in any of divisions (I) (3) (f) (i) to (vi) of this section, the 1832
trust is an irrevocable inter vivos trust, and at least one of 1833
the trust's qualifying beneficiaries is domiciled in this state 1834
for purposes of this chapter during all or some portion of the 1835
trust's current taxable year. 1836

(f) For the purposes of division (I) (3) (e) (ii) of this 1837
section, a "qualifying transfer" is a transfer of assets, net of 1838
any related liabilities, directly or indirectly to a trust, if 1839
the transfer is described in any of the following: 1840

(i) The transfer is made to a trust, created by the 1841
decedent before the decedent's death and while the decedent was 1842
domiciled in this state for the purposes of this chapter, and, 1843
prior to the death of the decedent, the trust became irrevocable 1844
while the decedent was domiciled in this state for the purposes 1845
of this chapter. 1846

(ii) The transfer is made to a trust to which the 1847
decedent, prior to the decedent's death, had directly or 1848
indirectly transferred assets, net of any related liabilities, 1849
while the decedent was domiciled in this state for the purposes 1850
of this chapter, and prior to the death of the decedent the 1851
trust became irrevocable while the decedent was domiciled in 1852
this state for the purposes of this chapter. 1853

(iii) The transfer is made on account of a contractual 1854
relationship existing directly or indirectly between the 1855
transferor and either the decedent or the estate of the decedent 1856
at any time prior to the date of the decedent's death, and the 1857
decedent was domiciled in this state at the time of death for 1858
purposes of the taxes levied under Chapter 5731. of the Revised 1859
Code. 1860

(iv) The transfer is made to a trust on account of a 1861
contractual relationship existing directly or indirectly between 1862
the transferor and another person who at the time of the 1863
decedent's death was domiciled in this state for purposes of 1864
this chapter. 1865

(v) The transfer is made to a trust on account of the will 1866
of a testator who was domiciled in this state at the time of the 1867
testator's death for purposes of the taxes levied under Chapter 1868
5731. of the Revised Code. 1869

(vi) The transfer is made to a trust created by or caused 1870
to be created by a court, and the trust was directly or 1871
indirectly created in connection with or as a result of the 1872
death of an individual who, for purposes of the taxes levied 1873
under Chapter 5731. of the Revised Code, was domiciled in this 1874
state at the time of the individual's death. 1875

(g) The tax commissioner may adopt rules to ascertain the 1876
part of a trust residing in this state. 1877

(J) "Nonresident" means an individual or estate that is 1878
not a resident. An individual who is a resident for only part of 1879
a taxable year is a nonresident for the remainder of that 1880
taxable year. 1881

(K) "Pass-through entity" has the same meaning as in 1882
section 5733.04 of the Revised Code. 1883

(L) "Return" means the notifications and reports required 1884
to be filed pursuant to this chapter for the purpose of 1885
reporting the tax due and includes declarations of estimated tax 1886
when so required. 1887

(M) "Taxable year" means the calendar year or the 1888
taxpayer's fiscal year ending during the calendar year, or 1889
fractional part thereof, upon which the adjusted gross income is 1890
calculated pursuant to this chapter. 1891

(N) "Taxpayer" means any person subject to the tax imposed 1892
by section 5747.02 of the Revised Code or any pass-through 1893
entity that makes the election under division (D) of section 1894
5747.08 of the Revised Code. 1895

(O) "Dependents" means one of the following: 1896

(1) For taxable years beginning on or after January 1, 1897

2018, and before January 1, 2026, dependents as defined in the 1898
Internal Revenue Code; 1899

(2) For all other taxable years, dependents as defined in 1900
the Internal Revenue Code and as claimed in the taxpayer's 1901
federal income tax return for the taxable year or which the 1902
taxpayer would have been permitted to claim had the taxpayer 1903
filed a federal income tax return. 1904

(P) "Principal county of employment" means, in the case of 1905
a nonresident, the county within the state in which a taxpayer 1906
performs services for an employer or, if those services are 1907
performed in more than one county, the county in which the major 1908
portion of the services are performed. 1909

(Q) As used in sections 5747.50 to 5747.55 of the Revised 1910
Code: 1911

(1) "Subdivision" means any county, municipal corporation, 1912
park district, or township. 1913

(2) "Essential local government purposes" includes all 1914
functions that any subdivision is required by general law to 1915
exercise, including like functions that are exercised under a 1916
charter adopted pursuant to the Ohio Constitution. 1917

(R) "Overpayment" means any amount already paid that 1918
exceeds the figure determined to be the correct amount of the 1919
tax. 1920

(S) "Taxable income" or "Ohio taxable income" applies only 1921
to estates and trusts, and means federal taxable income, as 1922
defined and used in the Internal Revenue Code, adjusted as 1923
follows: 1924

(1) Add interest or dividends, net of ordinary, necessary, 1925

and reasonable expenses not deducted in computing federal 1926
taxable income, on obligations or securities of any state or of 1927
any political subdivision or authority of any state, other than 1928
this state and its subdivisions and authorities, but only to the 1929
extent that such net amount is not otherwise includible in Ohio 1930
taxable income and is described in either division (S) (1) (a) or 1931
(b) of this section: 1932

(a) The net amount is not attributable to the S portion of 1933
an electing small business trust and has not been distributed to 1934
beneficiaries for the taxable year; 1935

(b) The net amount is attributable to the S portion of an 1936
electing small business trust for the taxable year. 1937

(2) Add interest or dividends, net of ordinary, necessary, 1938
and reasonable expenses not deducted in computing federal 1939
taxable income, on obligations of any authority, commission, 1940
instrumentality, territory, or possession of the United States 1941
to the extent that the interest or dividends are exempt from 1942
federal income taxes but not from state income taxes, but only 1943
to the extent that such net amount is not otherwise includible 1944
in Ohio taxable income and is described in either division (S) 1945
(1) (a) or (b) of this section; 1946

(3) Add the amount of personal exemption allowed to the 1947
estate pursuant to section 642 (b) of the Internal Revenue Code; 1948

(4) Deduct interest or dividends, net of related expenses 1949
deducted in computing federal taxable income, on obligations of 1950
the United States and its territories and possessions or of any 1951
authority, commission, or instrumentality of the United States 1952
to the extent that the interest or dividends are exempt from 1953
state taxes under the laws of the United States, but only to the 1954

extent that such amount is included in federal taxable income 1955
and is described in either division (S) (1) (a) or (b) of this 1956
section; 1957

(5) Deduct the amount of wages and salaries, if any, not 1958
otherwise allowable as a deduction but that would have been 1959
allowable as a deduction in computing federal taxable income for 1960
the taxable year, had the targeted jobs credit allowed under 1961
sections 38, 51, and 52 of the Internal Revenue Code not been in 1962
effect, but only to the extent such amount relates either to 1963
income included in federal taxable income for the taxable year 1964
or to income of the S portion of an electing small business 1965
trust for the taxable year; 1966

(6) Deduct any interest or interest equivalent, net of 1967
related expenses deducted in computing federal taxable income, 1968
on public obligations and purchase obligations, but only to the 1969
extent that such net amount relates either to income included in 1970
federal taxable income for the taxable year or to income of the 1971
S portion of an electing small business trust for the taxable 1972
year; 1973

(7) Add any loss or deduct any gain resulting from sale, 1974
exchange, or other disposition of public obligations to the 1975
extent that such loss has been deducted or such gain has been 1976
included in computing either federal taxable income or income of 1977
the S portion of an electing small business trust for the 1978
taxable year; 1979

(8) Except in the case of the final return of an estate, 1980
add any amount deducted by the taxpayer on both its Ohio estate 1981
tax return pursuant to section 5731.14 of the Revised Code, and 1982
on its federal income tax return in determining federal taxable 1983
income; 1984

(9) (a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S) (9) (a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a) (2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount

satisfies either of the following: 2014

(a) The amount was deducted or excluded from the 2015
computation of the taxpayer's federal taxable income as required 2016
to be reported for the taxpayer's taxable year under the 2017
Internal Revenue Code; 2018

(b) The amount resulted in a reduction in the taxpayer's 2019
federal taxable income as required to be reported for any of the 2020
taxpayer's taxable years under the Internal Revenue Code. 2021

(12) Deduct any amount, net of related expenses deducted 2022
in computing federal taxable income, that a trust is required to 2023
report as farm income on its federal income tax return, but only 2024
if the assets of the trust include at least ten acres of land 2025
satisfying the definition of "land devoted exclusively to 2026
agricultural use" under section 5713.30 of the Revised Code, 2027
regardless of whether the land is valued for tax purposes as 2028
such land under sections 5713.30 to 5713.38 of the Revised Code. 2029
If the trust is a pass-through entity investor, section 5747.231 2030
of the Revised Code applies in ascertaining if the trust is 2031
eligible to claim the deduction provided by division (S)(12) of 2032
this section in connection with the pass-through entity's farm 2033
income. 2034

Except for farm income attributable to the S portion of an 2035
electing small business trust, the deduction provided by 2036
division (S)(12) of this section is allowed only to the extent 2037
that the trust has not distributed such farm income. 2038

(13) Add the net amount of income described in section 2039
641(c) of the Internal Revenue Code to the extent that amount is 2040
not included in federal taxable income. 2041

(14) Add or deduct the amount the taxpayer would be 2042

required to add or deduct under division (A) (17) or (18) of this 2043
section if the taxpayer's Ohio taxable income were computed in 2044
the same manner as an individual's Ohio adjusted gross income is 2045
computed under this section. 2046

(T) "School district income" and "school district income 2047
tax" have the same meanings as in section 5748.01 of the Revised 2048
Code. 2049

(U) As used in divisions (A) (7), (A) (8), (S) (6), and (S) 2050
(7) of this section, "public obligations," "purchase 2051
obligations," and "interest or interest equivalent" have the 2052
same meanings as in section 5709.76 of the Revised Code. 2053

(V) "Limited liability company" means any limited 2054
liability company formed under Chapter 1705. or 1706. of the 2055
Revised Code or under the laws of any other state. 2056

(W) "Pass-through entity investor" means any person who, 2057
during any portion of a taxable year of a pass-through entity, 2058
is a partner, member, shareholder, or equity investor in that 2059
pass-through entity. 2060

(X) "Banking day" has the same meaning as in section 2061
1304.01 of the Revised Code. 2062

(Y) "Month" means a calendar month. 2063

(Z) "Quarter" means the first three months, the second 2064
three months, the third three months, or the last three months 2065
of the taxpayer's taxable year. 2066

(AA) (1) "Modified business income" means the business 2067
income included in a trust's Ohio taxable income after such 2068
taxable income is first reduced by the qualifying trust amount, 2069
if any. 2070

(2) "Qualifying trust amount" of a trust means capital 2071
gains and losses from the sale, exchange, or other disposition 2072
of equity or ownership interests in, or debt obligations of, a 2073
qualifying investee to the extent included in the trust's Ohio 2074
taxable income, but only if the following requirements are 2075
satisfied: 2076

(a) The book value of the qualifying investee's physical 2077
assets in this state and everywhere, as of the last day of the 2078
qualifying investee's fiscal or calendar year ending immediately 2079
prior to the date on which the trust recognizes the gain or 2080
loss, is available to the trust. 2081

(b) The requirements of section 5747.011 of the Revised 2082
Code are satisfied for the trust's taxable year in which the 2083
trust recognizes the gain or loss. 2084

Any gain or loss that is not a qualifying trust amount is 2085
modified business income, qualifying investment income, or 2086
modified nonbusiness income, as the case may be. 2087

(3) "Modified nonbusiness income" means a trust's Ohio 2088
taxable income other than modified business income, other than 2089
the qualifying trust amount, and other than qualifying 2090
investment income, as defined in section 5747.012 of the Revised 2091
Code, to the extent such qualifying investment income is not 2092
otherwise part of modified business income. 2093

(4) "Modified Ohio taxable income" applies only to trusts, 2094
and means the sum of the amounts described in divisions (AA) (4) 2095
(a) to (c) of this section: 2096

(a) The fraction, calculated under section 5747.013, and 2097
applying section 5747.231 of the Revised Code, multiplied by the 2098
sum of the following amounts: 2099

(i) The trust's modified business income;	2100
(ii) The trust's qualifying investment income, as defined	2101
in section 5747.012 of the Revised Code, but only to the extent	2102
the qualifying investment income does not otherwise constitute	2103
modified business income and does not otherwise constitute a	2104
qualifying trust amount.	2105
(b) The qualifying trust amount multiplied by a fraction,	2106
the numerator of which is the sum of the book value of the	2107
qualifying investee's physical assets in this state on the last	2108
day of the qualifying investee's fiscal or calendar year ending	2109
immediately prior to the day on which the trust recognizes the	2110
qualifying trust amount, and the denominator of which is the sum	2111
of the book value of the qualifying investee's total physical	2112
assets everywhere on the last day of the qualifying investee's	2113
fiscal or calendar year ending immediately prior to the day on	2114
which the trust recognizes the qualifying trust amount. If, for	2115
a taxable year, the trust recognizes a qualifying trust amount	2116
with respect to more than one qualifying investee, the amount	2117
described in division (AA) (4) (b) of this section shall equal the	2118
sum of the products so computed for each such qualifying	2119
investee.	2120
(c) (i) With respect to a trust or portion of a trust that	2121
is a resident as ascertained in accordance with division (I) (3)	2122
(d) of this section, its modified nonbusiness income.	2123
(ii) With respect to a trust or portion of a trust that is	2124
not a resident as ascertained in accordance with division (I) (3)	2125
(d) of this section, the amount of its modified nonbusiness	2126
income satisfying the descriptions in divisions (B) (2) to (5) of	2127
section 5747.20 of the Revised Code, except as otherwise	2128
provided in division (AA) (4) (c) (ii) of this section. With	2129

respect to a trust or portion of a trust that is not a resident 2130
as ascertained in accordance with division (I) (3) (d) of this 2131
section, the trust's portion of modified nonbusiness income 2132
recognized from the sale, exchange, or other disposition of a 2133
debt interest in or equity interest in a section 5747.212 2134
entity, as defined in section 5747.212 of the Revised Code, 2135
without regard to division (A) of that section, shall not be 2136
allocated to this state in accordance with section 5747.20 of 2137
the Revised Code but shall be apportioned to this state in 2138
accordance with division (B) of section 5747.212 of the Revised 2139
Code without regard to division (A) of that section. 2140

If the allocation and apportionment of a trust's income 2141
under divisions (AA) (4) (a) and (c) of this section do not fairly 2142
represent the modified Ohio taxable income of the trust in this 2143
state, the alternative methods described in division (C) of 2144
section 5747.21 of the Revised Code may be applied in the manner 2145
and to the same extent provided in that section. 2146

(5) (a) Except as set forth in division (AA) (5) (b) of this 2147
section, "qualifying investee" means a person in which a trust 2148
has an equity or ownership interest, or a person or unit of 2149
government the debt obligations of either of which are owned by 2150
a trust. For the purposes of division (AA) (2) (a) of this section 2151
and for the purpose of computing the fraction described in 2152
division (AA) (4) (b) of this section, all of the following apply: 2153

(i) If the qualifying investee is a member of a qualifying 2154
controlled group on the last day of the qualifying investee's 2155
fiscal or calendar year ending immediately prior to the date on 2156
which the trust recognizes the gain or loss, then "qualifying 2157
investee" includes all persons in the qualifying controlled 2158
group on such last day. 2159

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (AA) (5) (a) (iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity

directly and indirectly owns less than fifty per cent of the 2191
equity of the lower level pass-through entity on each day of the 2192
upper level pass-through entity's calendar or fiscal year in 2193
which or with which ends the calendar or fiscal year of the 2194
lower level pass-through entity and if, based upon clear and 2195
convincing evidence, complete information about the location and 2196
cost of the physical assets of the lower pass-through entity is 2197
not available to the upper level pass-through entity, then 2198
solely for purposes of ascertaining if a gain or loss 2199
constitutes a qualifying trust amount, the upper level pass- 2200
through entity shall be deemed as owning no equity of the lower 2201
level pass-through entity for each day during the upper level 2202
pass-through entity's calendar or fiscal year in which or with 2203
which ends the lower level pass-through entity's calendar or 2204
fiscal year. Nothing in division (AA) (5) (a) (iii) of this section 2205
shall be construed to provide for any deduction or exclusion in 2206
computing any trust's Ohio taxable income. 2207

(b) With respect to a trust that is not a resident for the 2208
taxable year and with respect to a part of a trust that is not a 2209
resident for the taxable year, "qualifying investee" for that 2210
taxable year does not include a C corporation if both of the 2211
following apply: 2212

(i) During the taxable year the trust or part of the trust 2213
recognizes a gain or loss from the sale, exchange, or other 2214
disposition of equity or ownership interests in, or debt 2215
obligations of, the C corporation. 2216

(ii) Such gain or loss constitutes nonbusiness income. 2217

(6) "Available" means information is such that a person is 2218
able to learn of the information by the due date plus 2219
extensions, if any, for filing the return for the taxable year 2220

in which the trust recognizes the gain or loss. 2221

(BB) "Qualifying controlled group" has the same meaning as 2222
in section 5733.04 of the Revised Code. 2223

(CC) "Related member" has the same meaning as in section 2224
5733.042 of the Revised Code. 2225

(DD) (1) For the purposes of division (DD) of this section: 2226

(a) "Qualifying person" means any person other than a 2227
qualifying corporation. 2228

(b) "Qualifying corporation" means any person classified 2229
for federal income tax purposes as an association taxable as a 2230
corporation, except either of the following: 2231

(i) A corporation that has made an election under 2232
subchapter S, chapter one, subtitle A, of the Internal Revenue 2233
Code for its taxable year ending within, or on the last day of, 2234
the investor's taxable year; 2235

(ii) A subsidiary that is wholly owned by any corporation 2236
that has made an election under subchapter S, chapter one, 2237
subtitle A of the Internal Revenue Code for its taxable year 2238
ending within, or on the last day of, the investor's taxable 2239
year. 2240

(2) For the purposes of this chapter, unless expressly 2241
stated otherwise, no qualifying person indirectly owns any asset 2242
directly or indirectly owned by any qualifying corporation. 2243

(EE) For purposes of this chapter and Chapter 5751. of the 2244
Revised Code: 2245

(1) "Trust" does not include a qualified pre-income tax 2246
trust. 2247

(2) A "qualified pre-income tax trust" is any pre-income 2248
tax trust that makes a qualifying pre-income tax trust election 2249
as described in division (EE)(3) of this section. 2250

(3) A "qualifying pre-income tax trust election" is an 2251
election by a pre-income tax trust to subject to the tax imposed 2252
by section 5751.02 of the Revised Code the pre-income tax trust 2253
and all pass-through entities of which the trust owns or 2254
controls, directly, indirectly, or constructively through 2255
related interests, five per cent or more of the ownership or 2256
equity interests. The trustee shall notify the tax commissioner 2257
in writing of the election on or before April 15, 2006. The 2258
election, if timely made, shall be effective on and after 2259
January 1, 2006, and shall apply for all tax periods and tax 2260
years until revoked by the trustee of the trust. 2261

(4) A "pre-income tax trust" is a trust that satisfies all 2262
of the following requirements: 2263

(a) The document or instrument creating the trust was 2264
executed by the grantor before January 1, 1972; 2265

(b) The trust became irrevocable upon the creation of the 2266
trust; and 2267

(c) The grantor was domiciled in this state at the time 2268
the trust was created. 2269

(FF) "Uniformed services" has the same meaning as in 10 2270
U.S.C. 101. 2271

(GG) "Taxable business income" means the amount by which 2272
an individual's business income that is included in federal 2273
adjusted gross income exceeds the amount of business income the 2274
individual is authorized to deduct under division ~~(A)(31)~~ (A) 2275
(28) of this section for the taxable year. 2276

(HH) "Employer" does not include a franchisor with respect 2277
to the franchisor's relationship with a franchisee or an 2278
employee of a franchisee, unless the franchisor agrees to assume 2279
that role in writing or a court of competent jurisdiction 2280
determines that the franchisor exercises a type or degree of 2281
control over the franchisee or the franchisee's employees that 2282
is not customarily exercised by a franchisor for the purpose of 2283
protecting the franchisor's trademark, brand, or both. For 2284
purposes of this division, "franchisor" and "franchisee" have 2285
the same meanings as in 16 C.F.R. 436.1. 2286

(II) "Modified adjusted gross income" means Ohio adjusted 2287
gross income plus any amount deducted under division (A) (28) of 2288
this section for the taxable year. 2289

(JJ) "Qualifying Ohio educator" means an individual who, 2290
for a taxable year, qualifies as an eligible educator, as that 2291
term is defined in section 62 of the Internal Revenue Code, and 2292
who holds a certificate, license, or permit described in Chapter 2293
3319. or section 3301.071 of the Revised Code. 2294

Sec. 5747.10. (A) As used in this section: 2295

(1) "Audited partnership" means a partnership subject to 2296
an examination by the internal revenue service pursuant to 2297
subchapter C, chapter 63, subtitle F of the Internal Revenue 2298
Code resulting in a federal adjustment. 2299

(2) (a) "Direct investor" means a partner or other investor 2300
that holds a direct interest in a pass-through entity. 2301

(b) "Indirect investor" means a partner or other investor 2302
that holds an interest in a pass-through entity that itself 2303
holds an interest, directly or through another indirect partner 2304
or other investor, in a pass-through entity. 2305

(3) "Exempt partner" means a partner that is neither a
pass-through entity nor a person subject to the tax imposed by
section 5747.02 of the Revised Code.

(4) "Federal adjustment" means a change to an item or
amount required to be determined under the Internal Revenue Code
that directly or indirectly affects a taxpayer's aggregate tax
liability under section 5747.02 or Chapter 5748. of the Revised
Code and that results from an action or examination by the
internal revenue service, or from the filing of an amended
federal tax return, a claim for a federal tax refund, or an
administrative adjustment request filed by a partnership under
section 6227 of the Internal Revenue Code.

(5) "Federal adjustments return" means the form or other
document prescribed by the tax commissioner for use by a
taxpayer in reporting final federal adjustments.

(6) "State partnership representative" means either of the
following:

(a) The person who served as the partnership's
representative for federal income tax purposes, pursuant to
section 6223(a) of the Internal Revenue Code, during the
corresponding federal partnership audit;

(b) The person designated, on a form prescribed by the tax
commissioner, to serve as the partnership's representative
during the state partnership audit. The commissioner may
establish reasonable qualifications and procedures for a person
to be designated as a state partnership representative under
this division.

(7) A federal adjustment is "final" or "agreed to or
finally determined for federal income tax purposes" on any of

the following: 2335

(a) The day after which the period for appeal of a federal 2336
assessment has expired; 2337

(b) The date on a refund check issued by the internal 2338
revenue service; or 2339

(c) For agreements required to be signed by the internal 2340
revenue service and the taxpayer or audited partnership, the 2341
date on which the last party signed the agreement. 2342

(B) (1) If any of the facts, figures, computations, or 2343
attachments required in a taxpayer's annual return to determine 2344
the tax charged by this chapter or Chapter 5748. of the Revised 2345
Code must be altered as the result of a final federal 2346
adjustment, and the federal adjustment is not required to be 2347
reported under division (C) of this section, the taxpayer shall 2348
file an amended return with the tax commissioner in such form as 2349
the commissioner requires. The amended return shall be filed not 2350
later than ninety days after the federal adjustment has been 2351
agreed to or finally determined for federal income tax purposes. 2352

(2) "One hundred eighty" shall be substituted for "ninety" 2353
in divisions (B) (1) and (E) (1) of this section if, for any 2354
taxable year, the final federal adjustment results from taxes 2355
paid by the taxpayer on an amount described in division ~~(A) (34)~~ 2356
(A) (32) of section 5747.01 of the Revised Code. 2357

(C) Except for adjustments required to be reported for 2358
federal purposes pursuant to section 6225(a) (2) of the Internal 2359
Revenue Code and adjustments that are taken into account on a 2360
federal amended return or similar report filed pursuant to 2361
section 6225(c) (2) of the Internal Revenue Code, partnerships 2362
and partners shall report final federal adjustments and make 2363

payments as required under division (C) of this section. 2364

(1) With respect to an action required or permitted to be 2365
taken by a partnership under this section, and any petition for 2366
reassessment or appeal to the board of tax appeals or any court 2367
with respect to such an action, the state partnership 2368
representative shall have the sole authority to act on behalf of 2369
the audited partnership, and the partnership's direct and 2370
indirect investors shall be bound by those actions. 2371

(2) Unless an audited partnership makes the election under 2372
division (C) (3) of this section: 2373

(a) The audited partnership, through its state partnership 2374
representative, shall do all of the following within ninety days 2375
after the federal adjustment is final: 2376

(i) File a federal adjustments return with the tax 2377
commissioner, including a copy of the notifications provided 2378
under division (C) (2) (a) (ii) of this section; 2379

(ii) Notify each of its direct investors, on a form 2380
prescribed by the commissioner, of the investor's distributive 2381
share of the final federal adjustments; 2382

(iii) File an amended tax return on behalf of its 2383
nonresident direct investors and pay any additional tax that 2384
would have been due under sections 5733.41 and 5747.41, or 2385
division (D) of section 5747.08, of the Revised Code with 2386
respect to those direct investors had the final federal 2387
adjustments been reported properly on the original filing. 2388

(b) Each direct investor that is subject to the tax 2389
imposed by section 5747.02 of the Revised Code shall file an 2390
original or amended tax return to include the investor's 2391
distributive share of the adjustments reported to the direct 2392

investor under division (C) (2) (a) of this section, and pay any 2393
additional tax due, within ninety days after the audited 2394
partnership files its federal adjustments return with the 2395
commissioner. 2396

(c) (i) Each direct and indirect investor of an audited 2397
partnership that is a pass-through entity and all investors in 2398
such a pass-through entity that are subject to the filing and 2399
payment requirements of Chapters 5733. and 5747. of the Revised 2400
Code are subject to the reporting and payment requirements of 2401
division (C) (2) or, upon a timely election, division (C) (3) of 2402
this section. 2403

(ii) Such direct and indirect investors shall make the 2404
required returns and payments within ninety days after the 2405
deadline for filing and furnishing statements under section 2406
6226(b) (4) of the Internal Revenue Code and applicable treasury 2407
regulations. 2408

(3) If an audited partnership makes the election under 2409
this division, the audited partnership, through its state 2410
partnership representative, shall do all of the following within 2411
ninety days after all federal adjustments are final: 2412

(a) File a federal adjustments return with the tax 2413
commissioner indicating the partnership has made the election 2414
under division (C) (3) of this section; 2415

(b) Pay the amount of combined additional tax due under 2416
division (D) (2) of this section, calculated by multiplying the 2417
highest rate of tax set forth in section 5747.02 of the Revised 2418
Code by the sum of the following: 2419

(i) The distributive shares of the final federal 2420
adjustments that are allocable or apportionable to this state of 2421

each investor who is a nonresident taxpayer or pass-through entity; 2422
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(ii) The distributive share of the final federal adjustments for each investor who is a resident taxpayer. 2424
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(c) Notify each of its direct investors, on a form prescribed by the commissioner, of the investor's distributive share of the final federal adjustments and the amount paid on their behalf pursuant to division (C) (3) (b) of this section. 2426
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(4) (a) A direct investor of an audited partnership is not required to file an amended return or pay tax otherwise due under section 5747.02 of the Revised Code if the audited partnership properly reports and pays the tax under division (C) (3) of this section. 2430
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(b) (i) Nothing in division (C) of this section precludes a direct or indirect investor in the audited partnership from filing a return to report the investor's share of the final federal adjustments. Such an investor who files a return and reports the income related to the final federal adjustments is entitled to a refundable credit for taxes paid by the audited partnership under division (C) (3) (b) of this section. The credit shall be computed and claimed in the same manner as the credit allowed under division (I) of section 5747.08 of the Revised Code. 2435
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(ii) Notwithstanding division (C) (4) (b) (i) of this section, an exempt partner, whether a direct or indirect investor, may file an application for refund of its proportionate share of the amounts erroneously paid by the audited partnership pursuant to division (C) (3) (b) of this section on the exempt partner's behalf. 2445
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(5) Upon request by an audited partnership, the tax commissioner may agree, in writing, to allow an alternative method of reporting and payment than required by ~~divisions~~ division (C) (2) or (3) of this section. The request must be submitted to the commissioner in writing before the applicable deadline for filing a return under division (C) (2) (a) or (3) of this section. The commissioner's decision on whether to enter into an agreement under this division is not subject to further administrative review or appeal.

(6) Nothing in division (C) of this section precludes either of the following:

(a) A resident taxpayer from filing a return to claim the credit under division (B) of section 5747.05 or division (D) (2) of section 5747.02 of the Revised Code based upon any amounts paid by the audited partnership on such investor's behalf to another state.

(b) The tax commissioner from issuing an assessment under this chapter against any direct or indirect investor for taxes due from the investor if an audited partnership, or direct and indirect investor of an audited partnership that is a pass-through entity, fails to timely file any return or remit any payment required by this section or underreports income or underpays tax on behalf of an indirect investor who is a resident taxpayer.

(D) In the case of an underpayment, and unless otherwise agreed to in writing by the tax commissioner:

(1) The taxpayer's amended return shall be accompanied by payment of any combined additional tax due together with interest thereon. An amended return required by this section is

a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the final federal adjustment to the taxpayer's federal income tax return.

(2) The audited partnership's federal adjustments return shall be accompanied by payment of any combined additional tax due together with interest thereon. The federal adjustments return required by this section is a return subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the final federal adjustment.

(3) The tax commissioner may accept estimated payments of the tax arising from pending federal adjustments before the date for filing a federal adjustments return. The commissioner may adopt rules for the payment of such estimated taxes.

(E) In the case of an overpayment, and unless otherwise agreed to in writing by the tax commissioner:

(1) A taxpayer may file an application for refund under this division within the ninety-day period prescribed for filing the amended return even if it is filed beyond the period prescribed in section 5747.11 of the Revised Code if it otherwise conforms to the requirements of such section. An

application filed under this division shall claim refund of 2510
overpayments resulting from alterations to only those facts, 2511
figures, computations, or attachments required in the taxpayer's 2512
annual return that are affected, either directly or indirectly, 2513
by the final federal adjustment to the taxpayer's federal income 2514
tax return unless it is also filed within the time prescribed in 2515
section 5747.11 of the Revised Code. It shall not reopen those 2516
facts, figures, computations, or attachments that are not 2517
affected, either directly or indirectly, by the adjustment to 2518
the taxpayer's federal income tax return. 2519

(2) (a) Except as otherwise provided in division (E) (2) (b) 2520
of this section, an audited partnership may file an application 2521
for a refund under this division within the ninety-day period 2522
prescribed for filing the federal adjustments return, even if it 2523
is filed beyond the period prescribed by section 5747.11 of the 2524
Revised Code, if it otherwise conforms to the requirements of 2525
that section. An application filed under this division may claim 2526
a refund of overpayments resulting only from final federal 2527
adjustments unless it is also filed within the time prescribed 2528
by section 5747.11 of the Revised Code. It shall not reopen 2529
those facts, figures, computations, or attachments that are not 2530
affected, either directly or indirectly, by the federal 2531
adjustment. 2532

(b) An audited partnership may not file an application for 2533
refund under division (E) of this section based on final federal 2534
adjustments described in section 6225(a) (2) of the Internal 2535
Revenue Code. 2536

(3) Any refund granted to a pass-through entity filing an 2537
application for refund under division (E) of this section shall 2538
be reduced by amounts previously claimed as a credit under 2539

section 5747.059 or division (I) of section 5747.08 of the Revised Code by the pass-through entity's direct or indirect investors. 2540
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(F) Excluding the deadline in division (C)(2)(c)(ii) of this section, an audited partnership, or a direct or indirect investor of an audited partnership that is a pass-through entity, may automatically extend the deadline for reporting, payments, and refunds under this section by sixty days if the entity has ten thousand or more direct investors and notifies the commissioner of such extension, in writing, before the unextended deadline. 2543
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Sec. 5747.70. (A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year ~~taxpayer who contributes to a variable college savings program account and to a purchaser of or purchases~~ tuition units under the Ohio college savings program created by Chapter 3334. of the Revised Code a qualified tuition program established in accordance with section 529 of the Internal Revenue Code. The amount of the deduction shall equal the amount contributed or purchased during the taxable year to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to four thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed four thousand dollars, the excess may be 2551
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carried forward and deducted in future taxable years until the 2571
contributions and purchases have been fully deducted. 2572

(B) In computing Ohio adjusted gross income, a deduction 2573
from federal adjusted gross income is allowed for: 2574

(1) Income related to tuition units and contributions that 2575
as of the end of the taxable year have not been refunded 2576
pursuant to the termination of a qualified tuition program 2577
payment contract or ~~variable college savings program~~ account 2578
~~under section 3334.10 of the Revised Code,~~ to the extent that 2579
such income is included in federal adjusted gross income. 2580

(2) The excess of the total purchase price of tuition 2581
units refunded during the taxable year pursuant to the 2582
termination of a qualified tuition program payment contract 2583
~~under section 3334.10 of the Revised Code~~ over the amount of the 2584
refund, to the extent the amount of the excess was not deducted 2585
in determining federal adjusted gross income. Division (B) (2) of 2586
this section applies only to units for which no deduction was 2587
allowable under division (A) of this section. 2588

(C) In computing Ohio adjusted gross income, there shall 2589
be added to federal adjusted gross income the amount of loss 2590
related to tuition units and contributions that as of the end of 2591
the taxable year have not been refunded pursuant to the 2592
termination of a qualified tuition program payment contract or 2593
~~variable college savings program~~ account ~~under section 3334.10~~ 2594
~~of the Revised Code,~~ to the extent that such loss was deducted 2595
in determining federal adjusted gross income. 2596

(D) For taxable years in which distributions or refunds 2597
are made under a qualified tuition ~~payment or variable college~~ 2598
~~savings program~~ ~~contract~~ program for any reason other than 2599

payment of higher education expenses, or the beneficiary's 2600
death, disability, or receipt of a scholarship as described in 2601
section 3334.10 of the Revised Code: 2602

(1) If the distribution or refund is paid to the purchaser 2603
or contributor or beneficiary, any portion of the distribution 2604
or refund not included in the recipient's federal adjusted gross 2605
income shall be added to the recipient's federal adjusted gross 2606
income in determining the recipient's Ohio adjusted gross 2607
income, except that the amount added shall not exceed amounts 2608
previously deducted under division (A) of this section less any 2609
amounts added under division (D) (1) of this section in a prior 2610
taxable year. 2611

(2) If amounts paid by a purchaser or contributor on or 2612
after January 1, 2000, are distributed or refunded to someone 2613
other than the purchaser or contributor or beneficiary, the 2614
amount of the payment not included in the recipient's federal 2615
adjusted gross income, less any amounts added under division (D) 2616
of this section in a prior taxable year, shall be added to the 2617
recipient's federal adjusted gross income in determining the 2618
recipient's Ohio adjusted gross income. 2619

Section 2. That existing sections 3735.65, 3735.66, 2620
3735.671, 3735.672, 3735.673, 3735.68, 3735.69, 5709.631, 2621
5709.82, 5709.85, 5747.01, 5747.10, and 5747.70 of the Revised 2622
Code are hereby repealed. 2623

Section 3. The amendment by this act of section 5747.70 of 2624
the Revised Code applies to taxable years beginning on or after 2625
January 1, 2023. 2626

Nothing in this act limits the ability of a taxpayer whose 2627
combined contributions to an Ohio variable college savings 2628

program account and purchases of tuition units under the Ohio 2629
college savings program for a beneficiary exceeded four thousand 2630
dollars in a taxable year beginning before January 1, 2023, from 2631
carrying forward and deducting the excess in taxable years 2632
beginning on or after January 1, 2023. 2633

Section 4. Section 5747.01 of the Revised Code is 2634
presented in this act as a composite of the section as amended 2635
by H.B. 18, H.B. 197, S.B. 26, and S.B. 276 all of the 133rd 2636
General Assembly. The General Assembly, applying the principle 2637
stated in division (B) of section 1.52 of the Revised Code that 2638
amendments are to be harmonized if reasonably capable of 2639
simultaneous operation, finds that the composite is the 2640
resulting version of the section in effect prior to the 2641
effective date of the section as presented in this act. 2642

Section 5. Pursuant to division (G) of section 5703.95 of 2643
the Revised Code, which states that any bill introduced in the 2644
House of Representatives or the Senate that proposes to enact or 2645
modify one or more tax expenditures should include a statement 2646
explaining the objectives of the tax expenditure or its 2647
modification and the sponsor's intent in proposing the tax 2648
expenditure or its modification: 2649

The objective of this act is to provide the same tax 2650
benefit to all families saving for college in Ohio. Currently, 2651
only families investing in Ohio's 529 college savings plan 2652
receive the \$4,000 deduction against their taxable income. The 2653
underlying goal is to encourage all Ohio taxpayers to invest in 2654
a 529 college savings account to plan for the cost of going to 2655
college. This act extends the same tax benefit to all Ohio 2656
families paying state income taxes regardless of whether they 2657
invest in Ohio's plan or another state's plan that may be a 2658

better option for their family needs. This act also provides	2659
competition for Ohio's college savings plan to ensure families	2660
investing in Ohio's plan obtain the highest possible return on	2661
their investment at the lowest possible cost associated with the	2662
plan.	2663